

**'Payments in Lieu' –
A Mechanism for Maximising
Affordable Housing
Provision in London?**

A thesis submitted to the University of London
for the degree of
Town Planning, Master in Philosophy

by

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Abstract

This thesis explores the use of the planning system for providing affordable housing in London. It examines the way in which London borough councils have utilised the planning system in order to maximise affordable housing completions. In particular, it considers the way in which 'payments in lieu' (PiL) have contributed to the supply of affordable accommodation.

This thesis assesses the planning policy framework for affordable housing provision in London. It also investigates past and current borough practices in respect of the implementation of these policies. This analysis includes an appraisal of the quantitative outputs of the planning system, including the particular contributions that have been forthcoming from PiL finances. The primary research for this thesis comprises a questionnaire survey of the thirty-three London boroughs and a number of case study planning applications involving PiL agreements. In addition, a range of secondary data sources are used in the analysis and evaluation, including Government 'Housing Investment Programme' (HIP) data.

The findings of this thesis are considered in the light of the contemporary debate regarding the future of the system of planning obligations in the UK. The benefits and disadvantages of the current approach to seeking affordable housing provision through the planning system are evaluated within this wider context. This leads into an assessment of the various alternative policy approaches that could be adopted by the Government in relation to planning obligations, with particular reference to the issue of affordable housing contributions.

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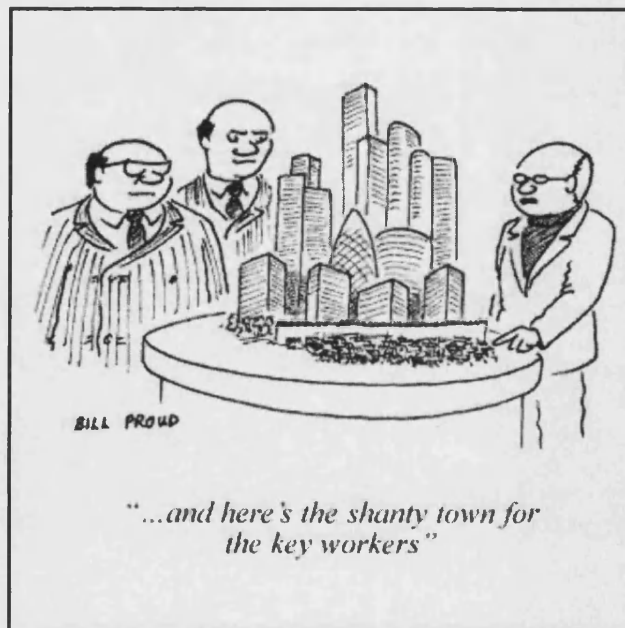
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Abbreviations

ADP	- Annual Development Programme
HA	- housing association
HIP	- Housing Investment Programme
LA	- local authority
LPA	- local planning authority
OPC	- optional planning charge
PGS	- planning gain supplement
PPG	- planning policy guidance
RPG	- regional planning guidance
RSL	- registered social landlord
RTB	- right to buy
SHG	- Social Housing Grant
TCI	- Total Cost Indicator
UDC	- urban development corporation
UDP	- unitary development plan
UK	- United Kingdom

To James



Source: Private Eye, Issue No. 1110

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Chapter 1

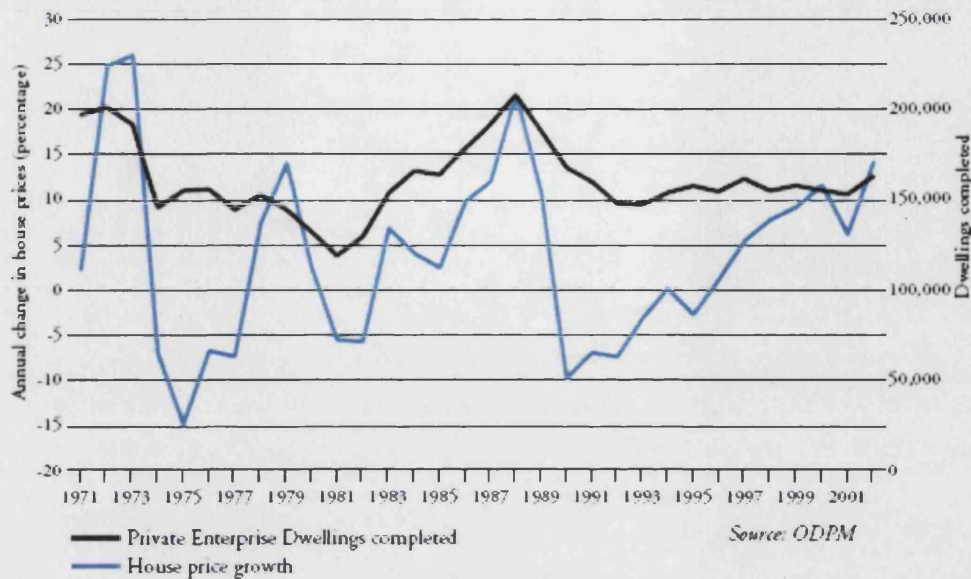
Introduction

Chapter 1 provides an introduction to this research thesis. The first section (Section 1.1) deals with the general topic context, considering the affordability crisis that is currently faced in the United Kingdom (UK) housing market. Section 1.2 then looks at the Government's response in terms of the use of the planning system to provide affordable housing, and how policy has emerged. This leads naturally into Section 1.3, which looks at the ways in which commentators have interpreted the various policy approaches as they have evolved. This provides a background literature review. Section 1.4 introduces the specific research area of this thesis, looking at affordable housing in the case of London. In this section, the main problems associated with the provision of affordable housing in the UK's capital city are outlined. The planning policies that have been introduced to seek to deal with these problems at the strategic level are also reviewed. Finally, Section 1.5 links the overall policy trends to the purpose of this particular research thesis, to assess the potential of planning mechanisms for increasing affordable housing provision in the future, with special reference to the case of London.

1.1 The affordability crisis in housing: the topic context

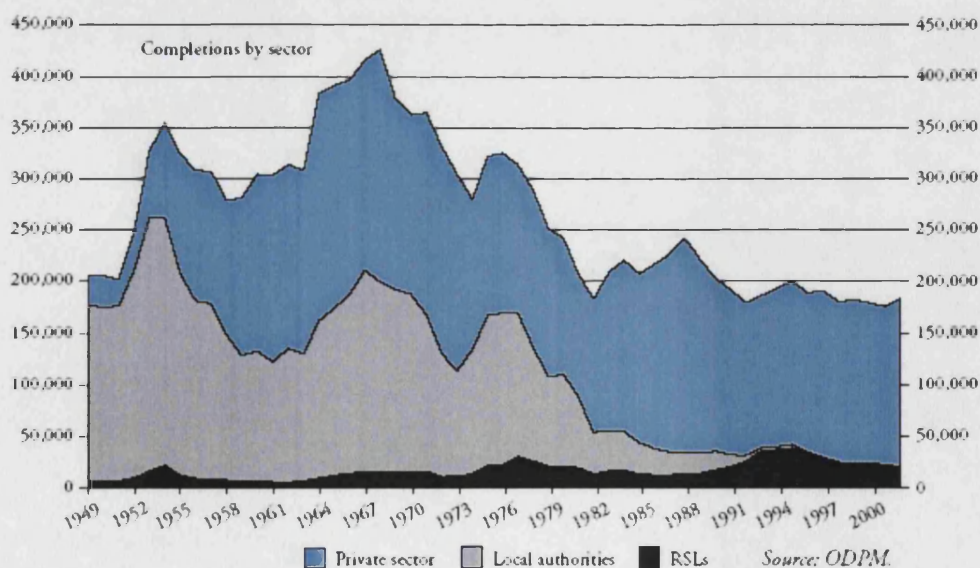
The UK housing market has shown a long-term increase in real house prices over the past three decades, with average house price increase of 3.3% per annum, compared to 0.1% in Germany and 1.2% in France (Barker, 2003, Table 1.1). A variety of factors have served to increase demand for housing. Although population growth has been much lower than post-war projections anticipated, there has been a net growth in the number of households. Smaller households are typical, as 'single'-living has become popular, divorce has increased, and people are living longer. In a smoothly functioning market, an imbalance of demand and supply would eventually self-correct. However, the housing market is considerably more complex (GLA Economics, 2003, p. 7). While demand for housing has increased, the supply of new dwellings has not kept pace. Figure 1.1 shows the unresponsive nature of the UK housing market since 1971. Supply in the UK has actually become less responsive and more inelastic over time. Before the war, it was up to four times as responsive as it was through most of the post-war period, with further decline in the 1990s, falling to almost zero (Barker, 2003). Dramatic increases in house prices since 1991 have not resulted in similar changes in housing output.

Figure 1.1: UK house price growth and housebuilding rates (Barker, 2003, Chart 2.1)



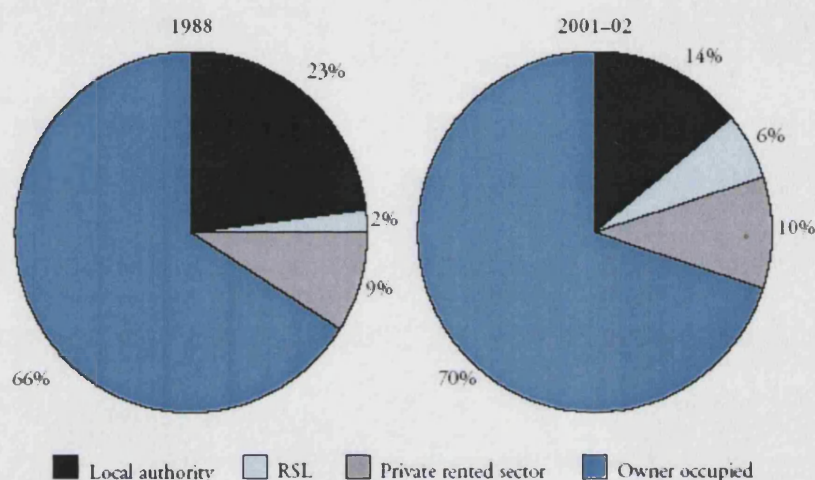
Overall, there has been a significant decline in housebuilding during the post-war era and housing completions are low when compared to the existing housing stock. At current rates of replacement, a new house built today would need to last around 1,200 years (Barker, 2003, para. 2.4). Figure 1.2 shows housing completions by sector and reveals the particularly dramatic decrease that has occurred in the production of 'social' or 'public' sector dwellings since a post-war high in the early 1950s.

Figure 1.2: UK housing completions, 1949-2002 (Barker, 2003, Chart 10.1)



Although the number of completions by registered social landlords (RSLs) and housing associations (HAs) increased since the early 1990s, this has in no ways been sufficient to replace the levels of production that local authorities (LAs) had previously achieved. Figure 1.3 compares the housing tenure split in England in 1988 with that in 2001/02. In 1988, one quarter of households were accommodated in the social sector (LA and RSL/HA). By 2001/02, this had decreased to only one fifth of households.

Figure 1.3: Housing tenure change in England, 1988 and 2001/02 (Barker, 2003, Chart 10.2)

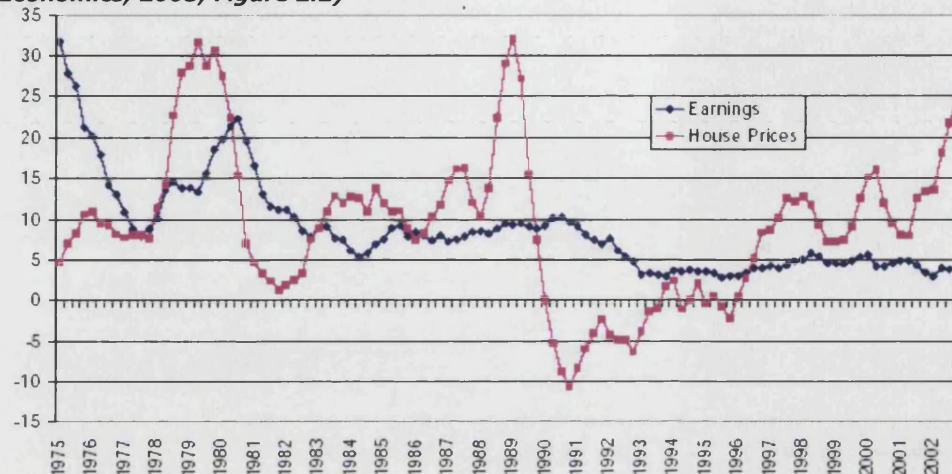


Source: ODPM.

While house prices and demand for accommodation have increased, average incomes and the supply of new dwellings has not kept pace. Unlike many other goods and services, housing in the UK has not become cheaper over time when compared to incomes (Barker, 2003, para. 1.1). This is shown clearly in Figure 1.4, which compares earnings with house price growth since the mid 1970s. As a result of this disparity, it has become increasingly difficult for people to enter the housing market, especially as first-time buyers. However, it is not only simple demand and supply trends that have contributed to the increasing size of the 'affordability gap' in the UK housing market. A number of political and socio-cultural factors have operated alongside the economic patterns and have exacerbated the situation. In particular, the impact of the 1980's housing policies of the Thatcher Government has been significant in affecting the tenure split of housing, causing a significant shrinking of the social sector. LAs have been encouraged to focus on repair and renewal rather than new-build, causing a significant shrinkage in supply (Figure 1.2). Alongside this trend, existing social sector stock has been continually depleted through the controversial 'right to buy' (RTB) policy. Although RSLs/HAs have been encouraged to take on the role of investing in the social sector, the level of provision has in no way compensated for the losses experienced. In addition to this overall trend, RTB

has been disproportionate over space, leaving the very worst housing in the public sector to form 'sink estates', but 'privatising' the better-quality stock.

Figure 1.4: UK earnings and house price growth, percentage annual change of quarterly average earnings index and average house prices, 1975-2002 (GLA Economics, 2003, Figure 2.2)



Source: ONS & Nationwide

As the production of affordable housing directly through the public sector decreased during the 1980s, a new approach to provision was adopted by the Government to supplement the new build activities of RSLs. New policy increasingly encouraged the use of the planning system to provide an element of affordable housing alongside private residential development. The use of 'planning obligations' has long been established in planning law, with the current system under Section 106 (S.106) of the Town and Country Planning Act 1990 allowing developers to enter into either unilateral or bilateral agreements with LAs. Under this legislation and Government policy (Circular 01/97, *Planning Obligations*), these agreements can be used to provide a range of 'planning gains' in order to enable acceptable development proposals to go ahead. The provision of affordable housing through this mechanism has increased in practice during the 1990s and early 2000s, with it becoming common practice for local planning authorities (LPAs) to set out policies in their statutory development plans seeking a contribution towards affordable housing in new residential schemes.

1.2 Affordable housing through planning: the emerging policy context

Although now widely accepted both in policy and practice, the direct use of the planning system to meet housing need only developed in the UK during the late 1980s and early 1990s. Until this time, housing and planning policy were separated in their functions, with planning policy having two distinct roles in regard to housing. First, the calculation of overall new dwelling requirements, to be set out in development plan and spatial policy documents at a range of

scales. And secondly, the preparation of housing policies and the specific allocation of sites in development plans to meet the predicted overall requirements (Crook, 1998a). Until the 1990s, LPAs were unable to separately identify affordable housing requirements for their local area, and neither could they allocate land distinctly for market and affordable housing development. In a climate where the only new supply of affordable housing is through RSL development, this policy means that such providers often have to build on land purchased at market rates, based on the price private house builders are willing to pay. In principle, housing policy should complement planning policy, providing adequate capital finance to RSLs so that they can compete in the land market and ensure that the houses constructed would be affordable. However, in practice, during times of escalating land and property prices, the use of private funds has become increasingly important to such bodies.

Throughout the 1980s the planning system had an indirect impact on housing and land prices, particularly where there were considerable planning constraints or where there was an inadequate flow of development land with planning permission. These concerns led to the increased use of the planning system for ensuring that local needs were being targeted in new developments. Such efforts included the use of legal agreements to restrict sales to low-income households, and the use of conditions attached to planning permissions to restrict dwellings size and impose higher densities. However, no formal central government policy existed and attempts to include local housing needs policies in development plans were deleted by the Secretary of State (Crook and Whitehead, 2002).

Following on from the publication of Planning Policy Guidance on Housing (PPG3) in 1988, Circular 07/91 provided the first national policy on affordable housing. This allowed more scope for LPAs to negotiate for social housing provision within general housing allocations and planning permissions, and permitted them to set targets and policies for affordable housing within local plans. The preparation and operation of such policies were required to be based on evidence of housing needs, which would be treated as a 'material consideration'. In 1992, PPG3 was revised, confirming the new policy approach of the 07/91 Circular. Further advice was later provided in Circular 13/96, *Planning and Affordable Housing*, and for the first time site-size thresholds, below which affordable housing provision should not be sought, were included in national guidance. This advice was soon updated by Circular 06/98, and current guidance is now provided by both this Circular and Revised PPG3 (2000).

As a result of this national planning guidance, policies relating to affordable housing may be included in development plans at the local level (either local plans or unitary development plans (UDPs)). LPAs may also include policies relating to overall requirements for new affordable housing during the plan period. In respect of development control functions, PPG3 and Circular

06/98 establish the fundamental principle that a community's need for affordable housing is a material consideration which may be fully taken into account in the determination of planning applications, where policies exist and up-to-date assessments indicate a local need for affordable housing (Grant, 1998). In other words, a developer's exclusion of affordable housing from a residential scheme in a case of clear local need is an adequate reason for the LPA to refuse to grant planning permission. The revision of PPG3 in 2000 develops this approach further, directly stating that planning permission may be refused if affordable housing is not provided where there is an identified need (PPG3, para. 14).

Government guidance requires LPAs to define 'affordable housing', but also makes it clear that this should include both low-cost market and subsidised housing and should not usually be expressed in favour of any particular form of tenure (Circular 06/98, para. 4). LPA policies relating to affordable housing can detail the approach they intend to take to achieve the overall affordable housing requirements, including indicative targets for specific development sites (as numbers of units or a percentage of total dwellings). They can also prepare policies to allow them to enter into planning agreements with developers on both allocated and windfall residential sites. Under Circular 06/98, affordable housing policies should only be applied to 'suitable sites', and not to those of less than one hectare or 25 units (and less than 0.5 hectare or 15 units in inner London boroughs). However, guidance does allow LPAs where the higher threshold would apply to reduce their thresholds where they can demonstrate 'exceptional local constraints' (Circular 06/98, para. 10). Developers are also encouraged to provide affordable housing on sites of below these size thresholds, where it is feasible and appropriate (Circular 06/98, para. 11).

Alongside the policy implications in relation to the provision of affordable housing through land use planning, PPG3 (2000) also establishes clearly the Government's objective of creating mixed and inclusive communities. It states that:

"Where a local planning authority has decided...that an element of affordable housing should be provided in development of a site, there is a presumption that such housing should be provided as part of the proposed development of the site. Failure to apply this policy could justify the refusal of planning permission."(PPG3, para. 17)

LPAs are to ensure that new residential developments help secure a better social mix by avoiding the creation of large areas of housing of similar characteristics. An appropriate mix of dwelling size, type and affordability are to be secured in both new developments and conversions (PPG3, paras. 10-11). Although there is an explicit presumption that any affordable housing contribution should be provided 'on-site', the provisions of Circular 06/98 relating to 'alternative' forms of contribution remain relevant in situations where both the LPA and developer both consider that a requirement to provide affordable housing on the site would be

inappropriate. In these situations, the national guidance allows for developers to make affordable housing available on alternative sites, through 'off-site' provision. Alternatively, the developer may meet the requirement by making a financial contribution towards the provision of affordable housing on another site. These monetary contributions are often known as 'payments in lieu' (PiL) or 'commuted sums'.

In addition to policies on housing and affordable housing, legislation and guidance in respect of 'planning obligations' is also extremely relevant to the system of providing affordable housing through the planning system. S.106 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, provides that parties with an interest in land may enter into a planning obligation, either unilaterally or bilaterally with agreement with the relevant LPA. A planning obligation may require land to be used in a specific way; it may require operations or activities to be carried out on that land; it may restrict the use of the land; or it may require the payment of financial sums. Circular 01/97, *Planning Obligations*, sets out the Government's policy for the use of planning obligations. This replaced the advice in Circulars 16/91 and 28/92. It states that such planning obligations must be operated in accordance with the fundamental principle that planning permission may not be bought or sold (para. 6). Paragraph 7 of this Circular sets out the 'necessity test', which requires that planning obligations are necessary; relevant to planning; directly related to the proposed development; fairly and reasonably related in scale; and kind to the proposed development; and reasonable in all other respects. The guidance requires that acceptable developments should not be refused because an applicant is unwilling or unable to offer benefits, and neither should unacceptable development be permitted because of unnecessary or unrelated benefits offered by the applicant (para. B3). It is explicitly stated that obligations should never be used as a 'betterment levy', as a means of securing a share for the community in the profits of a development (para. B13). Examples of appropriate planning obligations are provided at paragraph B11, and these include arrangements to secure the inclusion of an element of affordable housing in larger residential or mixed-use development. Readers are referred to separate advice on planning and affordable housing, which at the time was provided by Circular 13/96, subsequently superseded by Circular 06/98.

In terms of future policy for both planning obligations and the provision of affordable housing, there has been considerable debate in recent months and years. In the Planning Green Paper (*Planning – Delivering a Fundamental Change*) and the associated 'daughter' document on planning obligations (*Planning Obligations – Delivering a Fundamental Change*) published in December 2001, the Government proposed a radical system of planning 'tariffs'. These would be set locally through the development plan process within a framework of Government guidance. They would comprise a flat-rate charge on developments, calculated by reference to

floorspace, number of dwellings, a proportion of development value, or a similar factor. The proposals make considerable reference to affordable housing, stating that contributions would be absorbed within the tariff system and sought from both commercial and residential developments. On-site affordable housing provision is stated as being the first choice, but not the only option. The paper proposes that the existing thresholds, below which affordable housing provision is not sought under existing policy, would be abolished, potentially requiring contributions on schemes of all scales.

However, on 18th July 2002, at the launch of *Sustainable Communities – Delivering through Planning*, the Deputy Prime Minister announced that he was withdrawing proposals for a development tariff and that many of the Government's objectives would instead be delivered without legislative change. He announced that current policy guidance on planning obligations would be revised, with the stated purpose being "to create a more streamlined system that would enable the community to share in the benefits arising from development" (ODPM, 2002, para. 53). This implies that the primary role of planning obligations would be the distribution of private development benefits to the wider public. Such an approach would represent a significant shift from the policy position established under current legislation and guidance, which seeks only the mitigation of negative impacts that are directly related to private developments.

When introduced into Parliament in December 2002, the Planning and Compulsory Purchase Bill included no changes to the current legislative provisions on planning obligations. In line with the policy statement of July 2002, it was understood that the system would continue to operate under the provisions of S.106, but that new policy guidance would be issued to update Circulars 01/97 and 06/98. Similarly, the Government's 'Communities Plan' (*Sustainable Communities: Building for the Future*, February 2003) does not introduce any new policy guidance on residential development, either in general or in relation to affordable housing provision through planning. It very much carries forward the themes and policies of Revised PPG3 (2000), stating that sustainable communities are to be mixed and inclusive, offering a choice of housing and lifestyle. An indication of policy direction was included in *The Government's Response to the ODPM: Housing, Planning, Local Government and the Region's Select Committee Report on Affordable Housing* (March 2003). In terms of affordable housing through planning, the Government outline their intention to consult on allowing LPAs to seek contributions on smaller sites, where this is justified (H.M. Government, 2003, p. 5). In addition, they propose to consider the contribution to affordable housing that could be made by commercial developments (p. 6). The Government's stated presumption in favour of the on-site provision of affordable housing is also reiterated (p. 11).

Proposed Changes to PPG3 were issued in July 2003, in the form of two consultation papers and a planning statement. *Housing – Influencing the size, type and affordability of housing* proposes replacements to paragraphs 9-20, 71 and Annex B of PPG3, and also Circular 06/98, which is to be cancelled. The consultation paper deals with the Government's policy for the provision of affordable housing and seeks various important revisions to current policy and guidance. As in current policy advice, the document suggests that LPAs should include policies to deliver affordable housing in their development plans, and these should define what affordable housing is. It is stated that affordable housing should not "*normally*" be defined by reference tenure. However, it does allow definition by tenure "*where this would address an identified housing need that otherwise would not be met by other types of affordable housing*" (para. 6). In terms of thresholds for the provision of affordable housing, it is proposed that the current levels are reduced so that affordable housing should not "*normally*" be sought on sites of less than 0.5 hectares (compared with the existing 1 hectare) or developments of less than 15 dwellings (compared with the existing 25 dwellings). It is therefore suggested that thresholds should be reduced nationally to the level of the current threshold for inner London boroughs. LPAs would be able to seek affordable housing provision on sites smaller than 0.5 hectares or developments of less than 15 dwellings, although this would have to be justified in the local plan under various criteria (paras. 10 and 11). Whilst the issues of local discretion and flexibility in determining planning applications are not fully discussed in the consultation paper, it appears that LPAs would be expected to apply policy requirements more consistently. It is stated that LPAs cannot be expected to depart from adopted policies unless their application in particular situations would make the provision of affordable housing unviable because of particular physical and environmental constraints. The proposed changes reiterate the existing presumption that affordable housing should form part of the proposed development of the site. Only a limited number of circumstances should set aside this presumption and these should be stated in the local plan (para. 13).

Supporting the delivery of new housing was the second consultation paper published in July 2003, which also proposes revisions to PPG3. This document proposes an additional paragraph, to be added to existing paragraph 42 of PPG3. This is concerned with the reallocation of employment and other land to housing in order to increase the land supply for residential development.

Draft guidance on planning obligations, as promised at the introduction of the Planning Bill (December 2002), was published in November 2003. Entitled *Contributing to sustainable communities – a new approach to planning obligations*, this consultation document sets out proposals for a revised system of developer 'contributions'. As opposed to the Green Paper proposal, to abolish negotiated agreements and replace them entirely with a system of tariffs,

the consultation paper puts forward alternative proposals for an 'optional charge'. The idea is that where developers would prefer the greater speed and certainty of a non-negotiated fee, similar to the tariff, they would be able to choose to pay the optional planning charge (OPC). However, in acknowledgement of concerns expressed at the time of the Green Paper relating to an across-the-board fixed tariff, the new approach to contributions would also give developers the choice of paying an up-front one-off charge or the flexibility to opt for a conventional negotiated S.106 agreement.

In terms of affordable housing contributions, there are two issues in the OPC consultation paper that are particularly pertinent. First, the document briefly discusses developer contributions for affordable housing *per se*. It is proposed that a variety of approaches could be adopted, stating that,

"...there are different options for how affordable housing could be secured with the new charge. It could be calculated as part of the financial contribution, as an in-kind contribution – including on-site – or as a combination of both."(para. 40)

Perhaps the Government were purposely leaving their proposals 'open' to comment on a range of potential approaches. However, this statement does suggest that financial contributions could become a more acceptable conventional option for the provision of a contribution towards affordable housing than is currently the case under the PPG3 and Circular 06/98 presumption in favour of on-site provision. The paper suggests that the OPC would be a stated fixed cost that would vary according to the size of the development, possibly expressed as a cost per unit of the development. The second issue in the document that is relevant to affordable housing, and particularly in the London context, is the proposal that LPAs could consider 'pooling' a proportion of the OPC contributions with neighbouring LPAs in order to provide an opportunity to meet the needs of new development and the local or regional community in the best way. The Government invited views on whether LPAs should be restricted to spending the charge finances only on items specified in their local development plan, or whether there should be increased flexibility on how the money is spent.

The introduction of the OPC requires legislative change to S.106 and the Government therefore brought forward amendments to the Planning and Compulsory Purchase Bill during the Commons Report stage (2003/04 Parliamentary Session). There was considerable disagreement in both the House of Commons and the House of Lords over various sections of the Bill, including the proposed amendments to planning obligations. In respect of the latter, this debate was particularly fuelled by the publication of Kate Barker's *Review of Housing Supply*. Barker's Interim Report (December 2003) identifies a number of barriers to housing development. Restricted land supply is considered to be the main constraint on development,

although other factors also play a part. The planning system is identified as having important implications for the responsiveness of the housebuilding industry and the existing system of planning obligations under S.106 is considered to reduce the residual value of land, in some cases to a level below which landowners would be willing to sell. This is thought to prevent land from being sold for development in some situations (para. 9.21). The Interim Report states that S.106 agreements, and in particular the requirement to provide affordable housing, influence the high alternative use value of sites with planning permission for housing development (para. 9.22). Barker's Final Report (March 2004) includes a range of recommendations for policy changes to increase the supply of housing. She suggests that S.106 should be reformed to increase the certainty and reduce negotiation costs, returning to a "*scaled-back*" system of direct impact mitigation. However, she considers that it should retain its current affordable housing requirements as set out in Circular 06/98 (Recommendation 24). A new 'Planning-gain Supplement' (PGS) should be introduced, imposed on the granting of planning permission, allowing the extraction of some of the windfall gain that landowners receive from the sale of their land for residential development (Recommendation 26). It is suggested that a proportion of the revenue generated should be given directly to LAs to compensate for reduced S.106 contributions.

Despite Barker's recommendations, the Government decided to continue with their proposed OPC arrangements. The Planning and Compulsory Purchase Bill received Royal Assent on 13th May 2004, and Sections 46 and 47 of the Act together form a replacement to S.106, 106A and 106B of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991. The new clauses empower the Secretary of State to make provisions for LPAs to accept planning contributions in two forms. The Government's OPC is referred to as the 'prescribed means', comprising the payment of a contribution calculated in accordance with criteria to be set out by the relevant LPA. There is also provision for contributions to be made through 'relevant requirements', relating to negotiated mechanisms equivalent to the existing system of planning obligations. The clauses provide for the Secretary of State to make regulations (secondary legislation) under the affirmation resolution procedure relating to the means by which a planning contribution may be made.

In June 2004, the Government stated that it is continuing with proposed revisions to the current system of negotiated agreements, and a revised Circular 01/97 will be published for consultation in Autumn 2004. Updated PPG3 (following the consultation on Proposed Changes, July 2003) will also be issued in Autumn 2004. The Government are continuing work on the OPC, including the piloting of possible approaches. It is stated that a decision on the implementation of such a system will not be made until 2005, in parallel with the Chancellor's decision in relation to Barker's PGS idea (ODPM, 17th June 2004).

1.3 Background literature review

The emergence of planning policy promoting the provision of affordable housing alongside private residential development has taken place within the context of a broader academic debate.

The concept of 'planning gain' is closely linked with the nature of planning as discipline and practice. Healey (1997) argues that a utilitarian interpretation of planning focuses on land use, including the avoidance of conflicts and the provision of adequate infrastructure. It therefore includes considerations of stewardship for the environment, but is less concerned with social equity. She suggests that a more radical view of planning could be development involving the promotion of better conditions for the disadvantaged and a more democratic society, rather than prioritising the shape of urban space. The idea of using land use planning to promote the redistribution of benefits is in no ways new. As far back as 1942, the concept of recouping 'betterment' from private development was discussed in Government publications. Uthwatt defines the term,

"...in it's technical sense, to mean any increase in the value of land (including the buildings thereon) arising from central or local government action, whether positive eg. by the execution of public works, or negative eg. by the imposition of other restrictions on land."(Uthwatt Report, 1942, para. 260).

The Uthwatt Report goes on to highlight the practical difficulty of differentiating increases in land value in order to attribute a specific part to government action. The concept of taxing private landowners or developers in order to recover an element of the increased profits they enjoy directly as a result of public investment in infrastructure and/or public decisions in the granting of planning permission has remained very topical throughout the post-war era. Examples of development gains taxes during this period include the 1947 'development charge' and the 1967 'betterment levy', although all past attempts at levying development gains have failed (Barker, 2004, para. 4.42).

Grant (1999) suggests that, although overt attempts to tax land value increases via statute have generally failed, the system under S.106 could in some respects be viewed as a successful betterment tax approach. Specifically in relation to planning and affordable housing, he states that *"it is difficult to resist the conclusion that this is a form of betterment recoupment."*(1999, p. 71). The Government's willingness to accept financial contributions is considered by Grant to reveal the tenuous character of the link between general housing supply and the need for affordable housing, when compared with the requirements for planning obligations under the Circular 01/97 necessity test:

"Separate provision may indeed be preferable in land policy terms... but it then becomes more difficult to portray the process as a planning instrument rather than an instrument of taxation."(1999, p. 71)

Ward (1994) takes a different and contrasting view of the current system of planning obligations under S.106. He considers it,

"...to represent an institutionalisation of planning gain, renamed planning obligations, in effect completing the retreat from the principle of a general betterment tax."(1994, p. 222)

Alongside literature considering the relationship between planning gain and the taxation of development, attention has also been paid to whether and what kinds of planning gain are legitimate, an issue of particular relevance in the context of affordable housing. In both the US and England, literature focuses on the question of a 'rational nexus' to justify the Government's powers to require the development process to provide a form of planning gain (Crook, 1996 and 1998b). It is in this respect that the specific requirement on private residential developers to provide affordable housing is particularly contentious, as the market housing developer is required to provide for a need that it has not directly generated. Cornford (1998) notes that although planning obligations exist to provide the LA with a mechanism to offset the externalised costs of an appropriate development, they can also be used to impose unreasonable demands on an appropriate development, or to mitigate the negative aspects of an unacceptable development. These issues, amongst others relating to the processes of negotiation, were raised in many of the complaints received by the Nolan Committee into standards in local government (1997).

The earliest studies of planning and affordable housing policies date back to the early 1990s. Bishop and Hooper (1991) provide an assessment of the more general use of the planning system in the provision of affordable accommodation. They found that many LPA policies encourage higher densities and the inclusion of smaller dwellings within residential schemes, in order to reduce housing prices. Looking ahead to an increased use of planning policies for affordable housing delivery, their study concludes that,

"the scale of the gap between need and supply is so great that it is unlikely that any one policy initiative or instrument will be able, in the short term, to remedy this deficiency... manipulation of the planning system will never be a substitute for an appropriate level of public subsidy."(1991, p. 36)

Empirical research by the London Research Centre (LRC) in 1991 found that over two-thirds of London boroughs at the time either had or intended to prepare development plan policies for affordable housing. The need for substantial public funding to make planning policies for

affordable housing viable is noted in the report, with time delays in obtaining funding being observed as being a particular practical problem (1991, p. 62). LRC concluded that planning gain is a useful supplement to provision, but should not be a policy alternative, as it *"will not deliver substantial housing gains"* (1991, p. 67). Barlow and Chambers (1992) conducted research into local policy practice across England. They found that some LPAs are dissuaded from implementing policy requirements on developers because the link between housing development and increased demand for affordable housing is not direct and therefore the policy sits awkwardly with legal basis for S.106 agreements. Barlow and Chambers evaluate the potential of the system to produce affordable housing:

"Assuming that private sector housebuilding levels recover to (say) 150,000 units per annum in the late 1990s, and that 50% of these completions are in area where house and land prices are high enough to justify affordable housing 'gain', use of a 20% quota would yield 15,000 affordable housing units per annum." (1992, p. 37)

Other reports dating from the early 1990s are also sceptical of the ability of the planning system to contribute significantly to affordable housing needs, although they focus mainly on the principle of the policy rather than providing detailed quantitative analysis. The Joseph Rowntree Foundation's *Inquiry into Planning for Housing* (1994) looked at the then-emerging system of using the planning system to provide affordable housing. Both the advantages and disadvantages of the approach are considered in their report, but the conclusion is reached that the real solution to meeting affordable housing need is greater housing subsidy, rather than a flawed set of planning mechanisms.

The system of using land use planning to provide affordable housing became firmly established during the mid to late 1990s, leading to a number of studies into the way the approach is working out in practice. This research indicates that a large proportion of LPAs now have affordable housing policies included within their adopted or emerging local plans and UDPs. Those LPAs who do not include such a policy usually have a lack of identified need in their local area (Campbell et al, 2000). In terms of the numbers of affordable housing units being provided via planning obligations, the estimates of potential made by Barlow et al (1994) in the early days of the policy seem to have proved remarkably accurate. Crook et al (2002) found that the planning system secures around 12,000 affordable housing units per annum, with perhaps 10% of total housing completions being made affordable by means of planning obligations. One of the major constraints identified in the use of the policy, especially in London and the South East, is land availability with many development sites falling below the size threshold (in units or area) at which a contribution can be required. Even where LPAs outside of inner London have been allowed by the Secretary of State to adopt the lower threshold of 15 units or 0.5 hectares, it would appear that many residential sites fall below this level. In 2001, for example, 72% of residential planning permissions in London were for

schemes of less than five dwellings (Three Dragons et al, 2003). PPG3 and Circular 01/02, *The Town and Country Planning (Residential Density)(London and South East England) Direction* (ODPM, 2002), have sought to increase the density of residential development in London and the South East in order to maximise the use of land and, as noted in Section 1.2, the Government is currently reviewing the site size threshold in Proposed Changes to PPG3.

Regional variations in the provision of affordable housing through the planning system have been identified throughout the history of the policy. Barlow and Chambers (1992) predicted that planning agreements are more likely in growth areas where housing and land prices are high (1992, p. 42). From empirical study of policy practice, Campbell (2000) estimates that S.106 values in the South are around five times higher than in the North of England. Similar regional patterns have also been identified in respect of financial contributions made 'in lieu' of the on-site provision of affordable units, with London in particular receiving a disproportionately high level of financial contributions compared with the rest of England (Crook et al, 2002). Research has revealed that a variety of tenures of affordable housing have been secured through planning obligations. These include social rented housing and shared ownership, both of which management by a social landlord; low-cost home ownership (LCHO), where units are made available on the open market (usually smaller and therefore cheaper); and discounted open-market value (DOMV) housing, where the developer sells units with a percentage discount on the open market value, with future sales at the same discount. Spatial variation in the tenure of affordable housing secured has been identified by Crook et al (2002). While social rented housing is the most common tenure secured in London and the South of England, LCHO is found almost exclusively in the North and Midlands.

The way in which affordable housing is financed on planning obligations sites is a topic of increasing interest, as complex patterns of subsidy have emerged in recent studies. The securing of affordable housing often involves agreements between developers and RSLs, in addition to those between developers and LPAs. It has been found to be very rare that a developer will simply contribute a certain number of units free of charge to the RSL. Instead, the sale of land or completed units at a discounted rate is typical. Social Housing Grant (SHG) is relied upon for affordable housing delivery on about 70% of S.106 sites (Crook et al, 2002). It is in this regard that debate has arisen about the 'additionality' of affordable housing provided through the planning system (Crook and Whitehead, 2002). It would appear that the planning obligations system is being used to make affordable housing schemes financially viable in areas where it would not otherwise be possible, rather than adding significantly to the total output of affordable housing units. This is supported by evidence gathered by the House of Commons ODPM: Housing, Planning, Local Government and the Regions Select Committee on *Affordable Housing*.

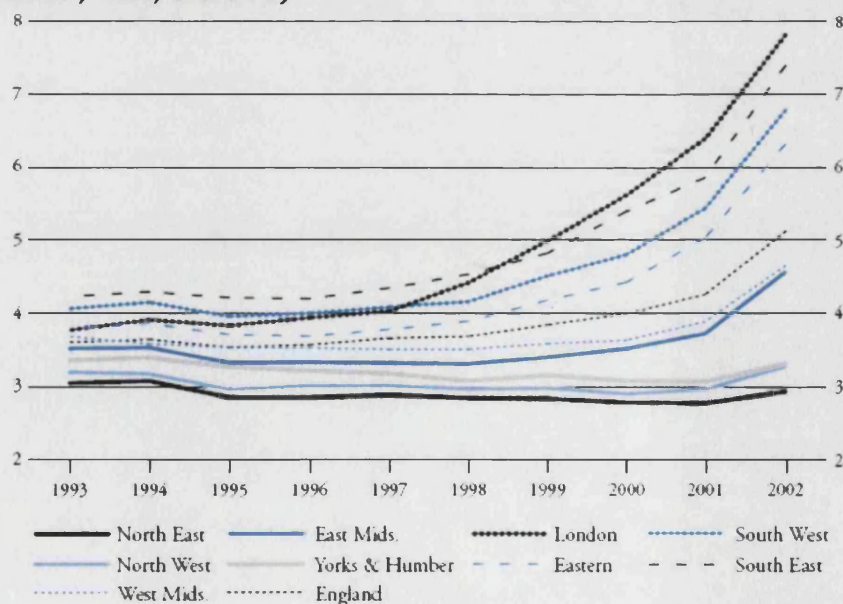
"up to now planning agreements had made only a very limited additional contribution to the provision of affordable housing, and that the potential for a greater contribution was restricted. The major benefit was that they secured a mix of housing tenure in new developments and enabled some affordable housing to be build in high land value areas."(para. 36, 2003)

Although the Committee suggest that "modest" increases in the contributions made by developers could be achieved, it also reports that stronger planning powers for LAs, more guidance, and better negotiating skills would be required in order for this to occur (2003, para. 43). By means of the provision of some level of private subsidy, schemes are brought within the Housing Corporation's Total Cost Indicator (TCI) limits, enabling affordable housing development by RSLs to take place. A change in the geography of housing development is taking place, therefore, with a greater mix of tenures in new developments. This is contributing towards the Government's agenda for more mixed and inclusive communities (Crook et al, 2004a forthcoming).

1.4 The case of London: the study context

The 'affordability crisis' being faced in the UK (outlined in Section 1.1) is experienced in its most intensity in the country's capital city of London. House prices rose significantly faster in London compared with the rest of the country between 1995 and 2002, at 149% compared with a UK average of 87% (GLA Economics, 2003, p. 4).

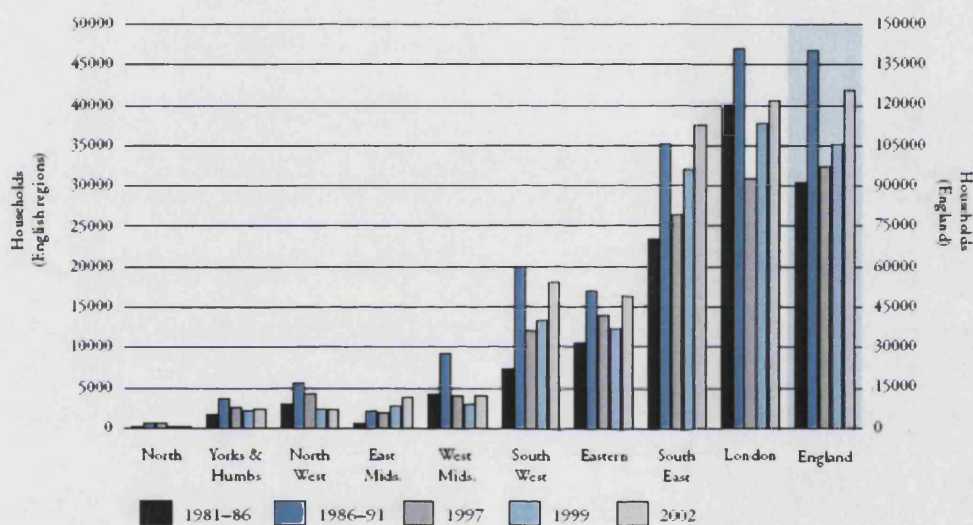
Figure 1.5: Ratio of Lowest Quartile House Prices to Lowest Quartile Earnings (Barker, 2003, Chart 1.7)



Source: ODPM

Figure 1.5 shows a comparison of lowest house prices and lowest incomes by region since 1993. It shows the sharp increase in differentials that has occurred from the late 1990s onwards, leading to a factor of almost eight in London by 2002. As it has become increasingly difficult for people to access the property market, need for affordable housing has increased. Figure 1.6 shows the pattern in the regions of England between the early 1980s and 2002. In the northern and midlands regions, net new need for affordable housing has remained relatively low, while in London and the South East levels of need have increased significantly since the mid 1990s.

Figure 1.6: Net New Need for Affordable Housing in England (Barker, 2003. Chart 3.3)



House price escalation and shrinkage of the social housing sector has significant socio-spatial implications. Alongside substantial economic restructuring, changes in the housing market have impacted heavily on the geography of British cities, and nowhere as much as in London. Sassen (1991) has stressed the 'polarising' forces that follow economic restructuring and globalisation trends, leading to sharper social divisions. Following a slightly different approach, the 'mismatch' theory argues that professionalisation is the dominant process related to economic restructuring, rather than polarisation (Hamnett, 1993). This emphasises the continuous upgrading required within the labour market, as a result of the demand for more highly educated workers within a post-industrial society. Both the polarisation and the mismatch theories lend pertinent features to the trends that have occurred in the UK housing market. While many of those 'on the housing ladder' have grown in personal wealth and benefited significantly as a result of house price growth, others have been increasingly excluded within a 'residual' social sector. The current crisis in affordability is preventing a substantial proportion of society from accessing adequate housing through the market. Spatial variations

in the housing market lead to uneven social outcomes, with many urban areas displaying extremes of wealth and poverty. In the meantime, the needs of 'intermediate' households are increasingly being met by their personal choice to move away to more affordable areas. Empirical affordability analysis conducted by Steve Wilcox (2003) includes an assessment of access to housing, which represents the proportion of working households in LA areas that would be unable to purchase a local property. London boroughs account for half of the LAs in the 'top 12' least accessible areas. The problems of recruitment and retention of 'key workers' is becoming an increasingly pressing issue in London and the South East, and has been an important factor in broadening the definition of 'affordable housing'.

Under the Greater London Authority Act 1999, the Mayor is responsible for strategic planning in London, including the preparation of a Spatial Development Strategy (SDS). This Strategy, known as the 'London Plan', sets out an integrated social, economic and environmental framework for the future development of London. The SDS Initial Proposals Document, *Towards a London Plan* (2001), recognised the acute need for additional housing in London, particularly for affordable dwellings. The Draft London Plan, published in June 2002 (GLA, 2002a), took forward these proposals in specific planning policies. Following an Examination in Public (EiP) in March and April 2003, the recommendations of the Panel's Report (July 2003) were taken into consideration in redrafting the Plan for its final publication in February 2004 (GLA, 2004).

Acknowledging the current housing shortage, the Mayor's London Plan accepts the Government's figure of 23,000 additional homes per year (set out in Regional Planning Guidance for the South East (RPG9), March 2001) as a minimum target, although it also states that *"the Mayor will seek the maximum provision of additional housing in London towards achieving an output of 30,000 additional homes per year from all sources"* (GLA, 2004, Policy 3A.1). The Mayor's Housing Commission (GLA, 2001) estimate that, as well as the 20,700 additional dwellings per annum required to meet additional household growth, 11,200 affordable homes each year over the next ten years are needed just to meet existing need. The total need for affordable housing is set in the London Plan at a level of 25,700 affordable units per year (para. 3.34). In order to meet these levels of identified need, the Mayor has set a strategic target that 50% of all new dwellings should be affordable, of which 70% should be social housing and 30% should be intermediate provision (low cost and key worker) (Policy 3A.7). One of the Mayor's strategic objectives is to increase substantially London's supply of affordable housing (para. 3.30). In terms of the contributions envisaged through planning policies, the London Plan states that *"boroughs should seek the maximum reasonable amount of affordable housing when negotiating on individual private residential and mixed-use schemes"* (Policy 3A.8).

Advice is provided in supporting text to the Plan policies in relation to the use of targets, thresholds and off-site provision. The Mayor has recently provided further guidance to the London Plan policy approach, in the form of Draft Supplementary Planning Guidance (SPG) on Affordable Housing (July 2004). This amplifies the policies and text contained within Chapter 3A of the London Plan, but very much embraces the thrust of the Plan's objectives.

In the Draft London Plan (June 2002), the Mayor has expressed considerable interest in alternative ways of using the planning system to increase the provision of affordable housing. In particular, the Draft Plan suggests that more effective use could be made of developer contributions provided in the form of 'payments in lieu' (PiL, i.e. financial contributions, rather than the in-kind provision of affordable housing either on- or off-site). The draft London Plan includes policies relating to on- and off-site contributions (Draft Policy 3A.9) and PiL (Draft Policy 3A.10). The latter policy states that boroughs should adopt policies or supplementary planning guidance (SPG) explaining how they intend to calculate PiL. It states that such payments must be held in affordable housing funds that are ring-fenced and recorded on a public register. In accordance with requirements under Circular 06/98 (para. 23), payments made must be used within a prescribed time period. While current Government policy restricts the use of PiL so that they can only be spent within the borough in which they were collected, the Draft London Plan states that *"the Mayor is concerned that this can be too restrictive in London and may thwart opportunities to provide more affordable housing"* (2002, para. 3A.53). Draft Policies 3A.9 and 3A.10 have not been carried forward to the final London Plan (GLA, 2004). The London Plan states that,

"In certain exceptional cases, the borough and a developer may consider that the required affordable housing should be provided off-site, or that a financial contribution instead of on-site provision is acceptable... It may be more reasonable to consider a financial contribution from a small site rather than seeking on-site provision." (GLA, 2004, para. 3.47)

This is fully in accord with current national policy guidance under PPG3, which states a presumption for the on-site provision of affordable housing (PPG3, para. 17). The Mayor's concerns relating to restrictions on the use of finances received by boroughs have also not been included in the final London Plan. Instead, there is a more general encouragement towards a partnership approach to the provision of affordable housing (2004, para. 3.49). In looking to promote a more strategic approach to the provision of affordable housing through the planning system, Policy 3A.9 of the final London Plan states that,

"the Mayor will work with the London Housing Board to ensure that a sub-regional approach is embedded in the London Housing Strategy and that the board's funding

recommendations to Government seek resources for cross-borough and sub-regional initiatives."

Supporting text states that the Mayor will be discussing with Government ways in which "*more flexible arrangements*" could be introduced at the sub-regional level, while ensuring that provision is related to meeting need in the local area (2004, para. 3.50).

1.5 The future for affordable housing provision?

National policy for planning obligations and the provision of affordable housing is undergoing significant change at the present time and it remains uncertain what approach the Government will decide to adopt. In the meantime, affordable housing needs in London are at critical levels, including not only those who require subsidised provision, but also an increasing proportion of society who would under normal circumstances meet their own needs through the market. A continuation of recent trends will have significant implications in terms of social polarisation and exclusion.

The Mayor is committed to maximising the provision of new affordable housing in London, and the use of the planning system is acknowledged to be an important mechanism in seeking to achieve this objective. This thesis considers these issues, evaluating the use of planning policies to increase the output of affordable housing. The current system of provision is assessed, including the problems that it entails, and various ideas for the future are considered.

Chapter 2

Research Approach and Methodology

This chapter outlines the study framework for this MPhil thesis. Section 2.1 outlines the study focus and the general research question to be addressed. Section 2.2 comprises specific objectives that this research will fulfil in order to meet these stated aims. The third section (Section 2.3) outlines the various hypotheses upon which the research is carried out, including expected findings. Section 2.4 defines the research parameters. Section 2.5 then describes the chosen methodology and the various data sources used, including a definition of research parameters. The final section (Section 2.6) sets out the way in which the thesis is structured.

2.1 Research question

As we observed in Section 1.1, LAs were the predominant providers of affordable ('social') housing until the 1980s. Changes in housing policy in the 'Thatcher Era' led to an increased emphasis on the LA as an enabler, whilst RSLs were to be the major providers of new affordable accommodation. While the planning system has been used in various ways, implicitly and explicitly, to influence the delivery of affordable housing, it has been primarily since the early the 1990s that the use of planning obligations to secure an element of affordable housing in private residential developments has become widespread in policy and practice. Recent research has revealed that some 30% of total affordable housing completions/acquisitions in England are now a result of planning system policies, through S.106 agreements (Crook et al, 2004a, forthcoming). The role of the planning system in the delivery of affordable housing appears to be increasingly significant.

The London Plan (2004) encourages boroughs to use the planning system to maximise the amount of affordable housing provision, as noted in Section 1.4. Whilst other sources of supply are also promoted (Policy 3A.7), the use of planning agreements and conditions to secure affordable accommodation in private residential developments is emphasised. In focusing on the London context, this research thesis takes the London Plan as a 'springboard' for analysis, looking at the contribution that the planning system can make towards maximising the output of affordable housing.

In the Draft London Plan (2002), the Mayor expressed an interest in exploring the way in which PiL could be used to maximise the provision of affordable housing, particularly by means of changing legislation to allow increased cross-borough working. The final London Plan (2004) does not include the same emphasis on PiL; however, it promotes sub-regional initiatives and states the Mayor's desire to see more flexible arrangements at this level. This is an area that has been identified by various commentators as having significant potential in respect of increasing the delivery of affordable housing. In the now infamous *Affordable Housing in London Report*, produced for the Mayor by Three Dragons/Nottingham Trent University (3D/NTU) to assess the economic viability of residential development including affordable housing provision, consideration is given to the contribution of PiL. 3D/NTU comment that,

"if policy rules enabled PiL to be transferred between boroughs, potential gains in affordable housing delivery could be achieved. For example, funds generated in boroughs with large potential residuals but low capacity could be transferred to boroughs with lower residuals but large capacity." (2001, p. 50)

Similarly, Dunlop Heywood Lorenz and London Residential Research (DHL/LRR), in a report for Westminster City Council (2001), state that significant potential exists to deliver affordable housing through payments in lieu of on-site affordable housing provision, especially if they could be transferred between boroughs.

Although there is a presumption for the on-site provision of affordable housing (PPG3, para. 17), current national policy allows for situations where a LPA and a developer agree that the on-site provision of affordable housing would not be appropriate for a particular scheme. In such cases, affordable housing may be provided on an alternative site ('off-site') or a PiL may be agreed for the development of affordable housing elsewhere in the local area. Existing provisions relating to planning obligations limit the use of PiL so that they can only be used for provision within the boundary of the local authority area of source. However, this restricts the provision of affordable housing in at least two ways.

First, there are situations where few sites for affordable housing development exist within a local authority's boundary area. PiL may therefore accumulate, but with limited opportunity for actual physical development. National guidance states that any planning obligations relating to payments in lieu of on-site affordable housing should include a covenant requiring the LPA to repay to the developer any sums that have not been used for their designated purpose by a specified time (Circular 06/98, para. 23). In situations where there is a lack of sites for the development of affordable housing, it is conceivable that significant amounts of funding resource could be required to be returned to the contributing developer, and therefore 'lost' from the system. Secondly, the economic potential of the PiL system to maximise provision may be limited by the legal requirement to make the provision within the same borough. This

point was touched upon by 3D/NTU in the above quote. The highest levels of PiL funds are likely to be accrued in LA areas where land is in greatest demand and most expensive, particularly in Central London. Even when LAs in such areas receive significant amounts of money, the relative output of affordable housing is reduced because sites for the off-site provision of affordable housing are so expensive.

If more flexible arrangements could be established than currently exist then this may serve to maximise the provision of affordable housing. In cases where boroughs have significant funds available but land for RSL development is prohibitively expensive, then cheaper land for development may be found in a neighbouring borough. By producing a greater differential in costs between the site of source (the private residential site) and the site of affordable housing development, it is possible that an increased output of affordable housing could be achieved. The potential for developing more flexible arrangements in this way is a particular area for consideration within this thesis. | .?

2.2 Study objectives

The specific research objectives of this study are to:

- Assess the constraints that operate in the provision of affordable housing in London, particularly through the planning system;
- Review current affordable housing planning policies in London, considering the national, strategic and local frameworks. This will include a review of the provisions that exist for PiL;
- Analyse current practice in respect of affordable housing planning policies in London, including the contribution that planning makes to affordable housing provision. The contribution of PiL funds will be analysed, including the way in which such monies are spent on the provision of affordable housing; and
- Evaluate the potential for creating a system that maximises the provision of affordable housing, focusing on the specific contribution that the planning system can make in the London context. This will include an evaluation of the prospects of maximising affordable housing outputs by means of establishing more flexible spatial arrangements, including cross-borough and sub-regional arrangements, and the particular role of PiL.

2.3 Anticipated trends

There has been a considerable amount of recent research into the production of affordable housing through the planning system. Partly in association with national planning policy reforms, a range of studies have been undertaken to look at policies and practice across England. At the strategic level also, preparations for the London Plan generated a significant

body of literature assessing the past and potential use of the planning system for affordable housing delivery. As the background literature review at Section 1.3 revealed, there has been a general acceptance of planning policies requiring the provision of an element of affordable housing as part of private residential development. The use of planning obligations has increased, particularly in high demand areas such as London and the South East where the need for affordable housing is greatest. LPAs are seeking to both reduce the thresholds at which policies for affordable housing provision apply to developments (in order to require smaller schemes to make contributions), and to increase the typical target levels (in order to increase the proportion of affordable housing being provided on sites).

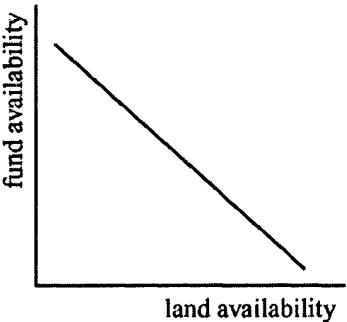
In line with these general trends, I anticipate that this thesis will confirm the increased use of the planning system for the provision of affordable housing in London. It would appear that considerable effort is being put into policy-making at all levels of government, seeking to enhance and promote this mechanism of delivering affordable accommodation. In practice, the excessive inflation of the housing market, especially in London, means that LPAs are seeking to implement their planning policies for affordable housing ever more stringently in order to increase the supply of such dwellings.

Although there is a considerable amount of recent literature on the general workings of the 'planning for affordable housing' system, there is a lack of information and analysis on the specific subject of PiL. The potential of this particular aspect of the planning system has been emphasised by several commentators, as noted above (Section 2.1). However, limited research has been carried out to consider the benefits and costs that such a policy option would be likely to entail. Whilst also exploring different ways in which the planning system could be used more generally to increase the provision of affordable housing, the specific prospects of using PiL to maximise output will form an important aspect to this thesis. I hypothesise that many London boroughs are generating considerable funds through PiL and yet in many situations there are limited opportunities for finances to be used to develop additional affordable housing. I suggest that, in principle, more flexible cross-borough initiatives could significantly increase the development of affordable housing in London.

The considerable constraints that operate on the supply of sites for development in London are now well documented, with some boroughs suffering more than others. Spatial variation means that it is possible that an inverse relationship exists between residential demand and land availability. Although highly simplistic, it is logical to suppose that where demand for housing development is high, available development sites will be used up most quickly. Wherever possible in such high-demand (and therefore high-profit) locations, developers will seek to make affordable housing contributions through PiL in order to maximise their returns.

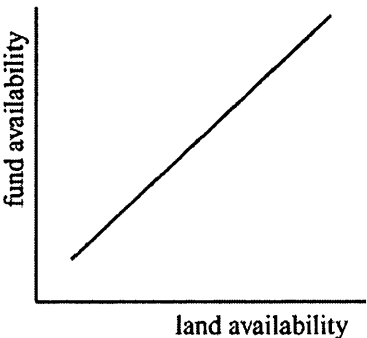
And yet land constraints mean that potential sites for developing affordable housing using these funds are even scarcer. On the other hand, such a situation also suggests that in boroughs where demand is lower there will be greater land availability and yet lower levels of affordable housing funds from PiL. This scenario is illustrated by Figure 2.1.

Figure 2.1: Conceptual graph to show land and funds in London boroughs (author's own)



Planning policies for affordable housing emphasise the need to provide affordable housing in order to meet identified local housing needs. However, local housing markets do not respect borough boundaries, and this could provide an important justification for allowing the more flexible use of borough PiL resources. In widening the spatial area within which resources could be used and shared, the objective would be to change the balance between land and funds so that the provision of affordable housing is maximised. This scenario is shown by Figure 2.2.

Figure 2.2: Conceptual graph to show land and funds in Sub-Regional areas (author's own)



In principle, increasing the flexibility of the use of land and funding resources could maximise affordable housing output and more effectively contribute to meeting local affordable housing needs. In practice, however, there are likely to be significant barriers to the establishment and

effective operation of such sub-regional arrangements, in addition to the current legislative restraints.

2.4 Research parameters

The concept of 'affordability' has been discussed in Section 1.1, and numerous references have been made to 'affordable housing' throughout Chapters 1 and 2. Whilst the definition of both terms has been endlessly debated, it is not the remit of this thesis to continue this debate and seek to delimit these concepts. For the sake of clarity, 'affordability' is simply used in this thesis to refer to the extent to which housing is financially accessible to the population as a whole. It is therefore used as a broad term to describe the general relationship between household incomes and the cost of accommodation in an area. With regard to the term 'affordable housing', national guidance states that planning policies should not be expressed in favour of any particular form of tenure, and includes low-cost market and subsidised accommodation (Circular 06/98, para. 4). At the strategic level, the London Plan adopts an 'inclusive' definition of affordable housing, including social housing, intermediate housing and (in some cases) low cost market housing (2004, Policy 3A.6). A similarly broad definition of affordable housing is therefore adopted in this thesis.

2.5 Research methodology

The research includes both primary (original) research and the analysis of secondary data sources. The main sources that have contributed to this thesis are outlined below, in the general order in which they are addressed in this thesis.

Legislation and policy review

Various national legislation and policies have been discussed in Chapter 1. The national planning framework sets the fundamental basis for this thesis, and similarly the strategic (London) context is now extremely important, as the Mayor has significant planning powers. These documents will therefore form an important element of the analysis and discussion throughout subsequent chapters. Past, present and emerging national planning policies have been reviewed thoroughly to contribute to this thesis.

Borough unitary development plans (UDPs) and supplementary planning guidance (SPG) have been reviewed in order to gain a more comprehensive picture of the current status of policy at the local level in London. This review supplements the findings of the questionnaire survey, and the analysis is provided at Appendix 1.

Literature review

In addition to national, strategic and local planning policies, a range of research literature has also been reviewed. This includes research reports commissioned by government, academic studies, and other more general sources (consultant reports, newspapers, journals, websites). At Section 1.3, a background literature review was provided, comprising an 'overview' of the 'affordable housing through planning' system. Further literature review is incorporated within subsequent chapters of the thesis, in reference to more detailed issues.

ODPM Housing Investment Programme (HIP) data analysis

National planning guidance requires LAs to monitor the operation and outputs of local plan affordable housing policies. PPG3 encourages planning officers to work closely with their housing departments to establish arrangements for keeping accurate and up-to-date information on the amount of such housing, or the contributions towards such housing. It states that,

"This information should be included in the material housing authorities are required to provide to Government Regional Offices in the annual Housing Investment Programme exercise to inform the assessment of their performance in their strategic housing role."
(para. 19)

These 'Housing Investment Programme' (HIP) questionnaires are sent to each LA by the ODPM. They comprise questions on a range of different housing topics, including the provision of affordable housing through the planning system. HIP Returns (the questionnaire responses from each LA) are publicly available documents from the ODPM. They have been analysed by Crook et al (2002 and 2004a forthcoming) to provide information on various aspects of affordable housing provision. A similar methodological approach has been adopted by this thesis, assessing the HIP data specifically for London. The findings of this element of research are displayed in Sections 3.1 and 5.1.

Questionnaire survey

An important part of this research thesis is the analysis of borough policies and practice relating to the provision of affordable housing. As there are thirty-three boroughs in London, it was decided that a predominantly quantitative approach to the collection of primary data should be adopted. A structured questionnaire was considered to be the most appropriate methodological approach, with questions designed to address the thesis objectives of constraints, policy, practice and potential for future changes.

In November 2003, questionnaires with covering letters were sent by post to all thirty-three borough planning departments, following a piloting survey in October 2003 (see Appendix 2 for a copy of the questionnaire and covering letter). The questionnaires were followed up by emails and telephone calls to non-respondents during December 2003 and January 2004, in order to ensure as high a return rate as possible. In total, twenty-seven responses were received, representing 82% of recipients.

The majority of the questions in the survey were multiple-choice or allowed for simple responses. This quantitative approach allowed the comparison of responses in a more systematic manner than qualitative techniques, the latter of which focuses on the non-numerical qualification of personal opinions and attitudes. The adoption of a quantitative structured survey approach also had the advantage of allowing the entire population of London boroughs to be included within the sample, removing one potential area for the introduction of error. The first and second sections of the questionnaire seeks to obtain comparable data on each borough's policies and practice in relation to the provision of affordable housing through the planning system. The third section of the questionnaire seeks to determine the initial opinions of borough representatives in respect of potential changes to the current system of payments in lieu. The measurement of attitude is considered to be *"the most difficult category of social survey data to collect"* (Flowerdew and Martin, 1997, p. 90). However, it was of fundamental importance to gauge the attitudes of local officers in this respect, and the majority of the questions for this section were multiple-choice, allowing space for respondents to add further comments where necessary.

Case studies

In order to understand more about the way in which PiL are being used in London, four case studies were undertaken. These were selected using an illustrative rather than a representative sample of the population, determined predominantly by the responses received from the questionnaire. Questionnaire respondents were asked to provide examples of particular applications that involved the use of a PiL approach to the provision of affordable housing. Of those respondents who provided examples, four case studies were selected for more detailed research. The case studies were selected to provide a reasonable cross-section of different boroughs in London, both in terms of geography (inner-outer, north-south, etc) and socio-economic characteristics (based on a general typology).

The case studies are analysed in Section 5.4. They are predominantly based on semi-structured telephone interviews with borough council officers, usually planning officers,

although in some cases legal officers were also questioned in relation to S.106 agreements. It was decided that telephone interviews would be the most appropriate way of conducting these interviews, as they were only to be brief and seeking to arrange meetings would risk 'loosing' the selected case studies in the councils where planning officers are busiest. A 'pro forma' approach was followed in conducting the interviews for each case study. In addition to the telephone interviews, secondary data sources also provided useful information in respect of some of the case studies. These included websites for developments, borough committee reports and GLA planning reports. Where the latter sources have been referenced specifically within this thesis, this is made clear in Section 5.4.

2.6 Thesis structure

Chapter 3 assesses the constraints that operate in the provision of affordable housing in London, and the ways in which these could be overcome.

Chapter 4 reviews the current planning policy framework that governs affordable housing provision in London. This includes analysis of national guidance and strategic policies, in addition to borough UDP policies.

Chapter 5 analyses the current outworking of affordable housing planning policies in London. The contribution of PiL funds is assessed, including the way in which such finances are spent on the provision of affordable housing.

Chapter 6 evaluates the potential for making changes to the existing policy framework in order to create a system that maximises the provision of affordable housing.

Chapter 7 provides a conclusion, bringing together the findings of this thesis, and also considers what further research could be conducted to contribute further to our understanding of this important study area.

Chapter 3

Constraints on the Supply of Affordable Housing in London

This chapter considers the constraints that operate to limit the supply of affordable housing. The first section (Section 3.1) sets the context to the discussion, outlining the current situation in London. In economic terms, it is logical to consider that the low supply of affordable housing may result from a lack of opportunities for development, and/or a lack of resources to realise the opportunities available (Satsangi et al, 2001). Sections 3.2 and 3.3, respectively, therefore assess land availability and funding resources in London. Section 3.4 then evaluates the various influences that the planning system has on the provision of affordable housing, looking at the system as a whole and also the specific role of planning policies relating to affordable housing. Finally, Section 3.5 ties together the various issues discussed through the chapter in specific relation to how these inform planning policies for affordable housing.

3.1 The supply of affordable housing in London

When assessing the supply of housing, including affordable housing, it is important to note that there are three principal sources of additional dwellings:

- (i) building new housing units;
- (ii) bringing empty housing units back into use; and
- (iii) converting non-residential properties into housing units.

Although the main focus of this research thesis is on the construction of new dwellings, as in (i), it is necessary in any discussion to be aware of alternative means of increasing supply, even if these mechanisms typically produce relatively few additional units.

At Section 1.1 the background to the current crisis in affordable housing in the UK was considered, which showed the critical problems faced by politicians at all levels of government in seeking to develop policies and funding structures to increase the supply of housing. Various commentators have highlighted the unresponsive nature of the British house building industry - that despite growing demand, there has been a substantial decline in dwellings completions

during the post-war period. Total annual completions peaked at 425,000 dwellings in 1968 but has decreased to a level of less than half that figure in the early 2000s. The disproportionate growth in house prices relative to incomes in recent years has resulted in an increasing need for affordable accommodation, particularly in high-pressure areas such as London and the South East. Despite this, there has been an overall decline in the supply of affordable housing since the mid 1960s (refer to Figure 1.2). Whilst at the house building peak of 1968, LA completions accounted for 43% of total new dwellings; this proportion had decreased to 0.3% by 2001 (GLA Economics, 2003).

Unlike trends in private house building, which are susceptible to property market cycles and economic forces, construction of affordable housing is almost entirely a direct result of Government housing policies. In terms of long term trends, the influence of the Conservative Government of 1979-1997 is seen as particularly significant, with Margaret Thatcher's changes to housing policy and funding structures resulting in a dramatic decline in the construction of LA dwellings. However, the Conservative Government's housing policy did not simply reduce the supply of new affordable housing dwellings. The Housing Act 1980 also introduced the 'right to buy' (RTB), giving secure LA tenants a statutory right to purchase their property, at a discounted price. In seeking to analyse the provision of affordable housing in London in recent years, it is therefore important to consider not only 'additions' to the existing stock, but also the 'losses' that are taking place. The equation below shows a simple 'gain-loss' balancing model of affordable housing stock:

$$\begin{array}{lcl} \text{net gain/loss} & & \\ \text{of affordable} & = & \text{(new build} \\ \text{housing} & & \text{+ re-use} \quad - \quad \text{(RTB sales} \\ & & \text{+ conversions)} \quad \text{+ demolitions} \\ & & \text{+ abandonment)} \end{array}$$

In assessing additions to the affordable housing stock in London, Figure 3.1 shows supply of affordable housing in the three-year period 2000/01 to 2002/03, including the contributions of planning system policies for affordable housing provision.

Figure 3.1: Supply of additional affordable housing units in London, 2000/01 to 2002/03.

	Year		
	2000/01	2001/02	2002/03
Total Affordable Housing Completions	8,264	7,055	7,377
Affordable Housing Completions through Planning Policies	1,958	1,759	3,153
Percentage of Total Completions through Planning Policies	23.7%	24.9%	42.7%

Source: ODPM, HIP Data

Figure 3.1 shows that an average of around 7,500 new affordable housing units per annum have been produced in London in the three-year period. Of these, an average of 31% of the additional affordable dwellings in London have been provided as a result of planning policies for affordable housing. Whilst there may be further affordable housing additions, via the re-use of empty stock and the conversion of non-residential uses, these are not likely to increase the above figures dramatically. Indeed, the majority of residential conversions are likely to be included in the figures, as planning permission would be required for the change of use of any non-residential unit to a habitable dwelling house.

The level of losses that has occurred to the existing affordable housing stock must be considered against this analysis of additional provision. Excluding analysis of demolitions, abandoned homes, etc, the predominant method of depleting affordable housing stock is through RTB. Through this means, affordable housing units become 'privatised' and are effectively transferred from the affordable housing sector to the owner-occupied sector. Figure 3.2 shows RTB sales in London in recent years. It indicates that an average of just over 11,000 RTB sales were completed each year between 1999/00 and 2002/03.

Figure 3.2: Right to buy (RTB) sales in London, 1999/00 to 2002/03

	Year			
	1999/00	2000/01	2001/2002	2002/03
Sales Completed	11,331	11,439	9,817	11,608

Source: Association of London Government Housing Steering Group, 2004

While acknowledging that some minor categories have been excluded from the above analysis, even just a superficial comparison of Figures 3.1 and 3.2 shows that losses of affordable housing stock through RTB sales have substantially exceeded gains through the construction of new affordable housing units, even taking into account the contributions of planning policies. It is interesting to compare this analysis, albeit highly generalised, with the London Plan's assessment of affordable housing need. The Plan states that overall affordable housing need in London is 25,700 units per annum (para. 3.34). This figure was produced as a result of analysis by the Mayor's Housing Commission, and comprises:

- 5,000 natural growth;
- 11,200 to meet past unmet need;
- 2,000 to replace losses of stock due to RTB;
- 2,500 additional households unable to afford increasing house prices; and
- 5,000 'intermediate' homes.

(as recorded in the Report of the Panel into the draft London Plan, July 2003, para. 4.42)

Whilst this thesis does not attempt to provide a critique of the analysis conducted by the Mayor's Housing Commission, it is interesting to note the various inputs included. In particular, the figure of 2,000 units to replace losses through RTB seems surprisingly low in comparison with recent levels of RTB sales. Taking into account all gains and losses to affordable housing stock, the Association of London Government (ALG) recently stated that:

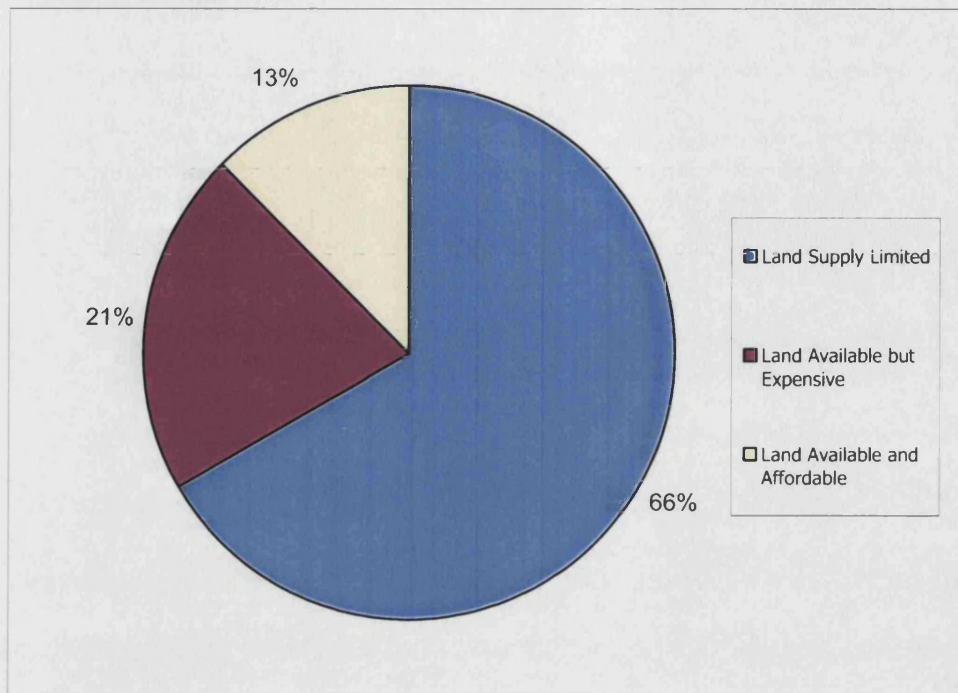
"In only four years [1999/00 to 2002/03], 15,000 fewer affordable dwellings have been built or acquired in London than have been sold at discounts under the right to buy (RTB). RTB sales are expected to increase to about 20,000 in 2003/04, with new provision also increasing to around 10,000." (2004, page 1)

Under broader housing policy reforms, the current Government has made changes to RTB rules that were brought into effect in March 2003. These involve the reduction of maximum RTB discounts in areas of 'high demand', which include 31 of London's 33 boroughs. Alongside the strong housing market of the early 2000s, these policy changes have resulted in dramatic increases in RTB applications, as indicated in the quote above (ALG, 2004). The overall effect on the stock of affordable housing in London is that net losses are likely to continue, at least in the near future.

3.2 Land resources

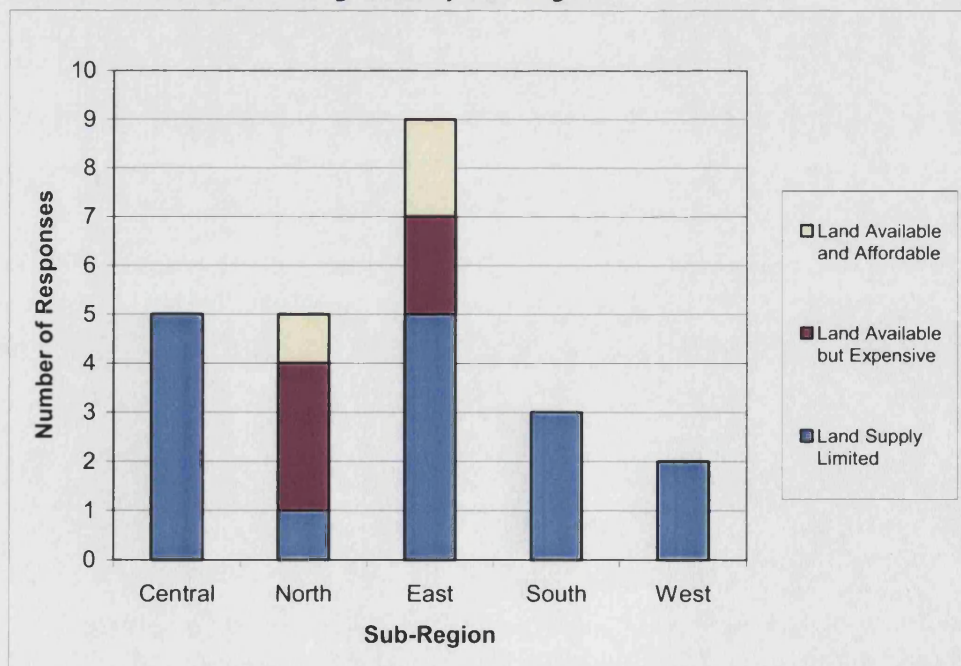
In her Interim Report on Housing Supply, Barker notes that, *"land availability can be a serious problem affecting all developers, including RSLs"* (2003, para. 10.26). The questionnaire survey conducted as part of this thesis sought to address the issue of land availability for affordable housing development in London by seeking the opinion of officers in respect of their particular borough area. The findings are shown in Figure 3.3. This reveals that two-thirds of responding boroughs consider that the availability of sites for the use of affordable housing funds is limited. Just over one-fifth (21%) of boroughs consider land to be available but expensive in terms of developing affordable housing. It is of note that while 13% of boroughs consider land to be available and affordable, this represents only three boroughs. Of these, two respondents provided a dual-response (they provided two answers each), indicating that 'land is available and affordable' and 'land is available but expensive'. Both of these boroughs, namely Haringey and Tower Hamlets, also added comments to their questionnaire responses, stating that there are areas within their boroughs where land is expensive but there are also areas where land is affordable. This indicates a variation in land availability and price at intra- as well as inter-borough levels.

Figure 3.3: Pie Chart to show officers' perceptions of land availability for the use of affordable housing funds.



Source: author's questionnaire survey

Figure 3.4: Stacked Bar Chart to show boroughs' perceptions of land availability for the use of affordable housing funds by Sub-Region.



Source: author's questionnaire survey

Spatial variation in officers' perceptions of land availability is considered further in Figure 3.4, which shows responses by sub-region. This shows that the overall number of responses received by sub-region is quite uneven and care must therefore be taken in generalising the trends shown. Despite this caution, Figure 3.4 shows an interesting contrast in land availability patterns. 100% of respondents in the Central, South and West sub-regions indicate that land supply is limited. By contrast, the North and East sub-regions include boroughs that indicate that land is available, although this includes both expensive and affordable areas. In view of the 'suburban' nature of the North sub-region and the relatively 'poor' reputation of several East sub-region boroughs, this pattern is perhaps not surprising. This indicates the importance of the housing market in influencing land resources.

The questionnaire survey indicates that there is a general lack of developable housing land in London. However, it is important to note that it is not the *availability* of sites that forms the fundamental problem faced by housebuilders and affordable housing providers in London. Land supply* is governed by the price charged for it, rather than simply by its physical availability. High land prices are particularly restrictive when considering land supply for affordable housing, as the returns on such developments are generally considerably lower than the profits accruing from market housing schemes. Obtaining land at a price that makes affordable housing development viable is therefore a considerable obstacle to provision (Satsangi et al, 2001). As the questionnaire survey findings touch upon, land prices vary significantly geographically, and at a range of spatial scales. While the supply of housing land is generally limited across the whole of London, certain boroughs have a greater supply of potential sites than others; and even within boroughs, there is often a high level of variation in land supply. Land prices are a product of the property market, and local housing markets are therefore an essential consideration to developers in considering the viability of a proposed residential development scheme. The housing market is complex and its dynamics vary significantly over time, as well as space, particularly in the UK economy (refer back to Section 1.1). Combined with the speculative nature of the housebuilding industry, this makes residential development an inherently unpredictable investment. Aggravated further by the fact that the majority of firms are small businesses, with 96% of construction firms classified as employing 13 or less employees (GLA Economics, 2003), this leads to considerable 'conservatism' in developer behaviour, contributing towards under-supply and reduced market responsiveness (Barker, 2003).

* It is important to note that the focus of Section 3.2 is on *housing* land supply, as opposed to land supply in general. Even in high pressure areas such as London, land supply for certain uses may not be particularly problematic, while housing land remains in short supply. For ease of terminology, 'land supply' in the remainder of this chapter refers specifically to housing land, unless clearly stated otherwise.

3.3 Funding resources

Funding for affordable housing comes from both public and private sector sources.

In terms of public sector funding, a considerable proportion of capital investment in affordable housing is spent on existing stock, particularly LA housing, via maintenance and repairs. In total, 189,000 dwellings in London received some form of capital work during 2002/03, amounting to a cost of £640 million (London Housing, 2004). In relation to new-build, LAs were responsible for the majority of social housing development prior to the 1988 Housing Act. Subsequently, the LA's remit has changed from provider to enabler, with affordable housing construction being the role of RSLs. Affordable housing development in this case takes place by means of RSLs purchasing and developing sites using a combination of Social Housing Grant (SHG) and private finance (loans raised by the RSL themselves against the capital value of the new units). SHG is public funding, administered centrally by the Housing Corporation from the Annual Development Programme (ADP). Until recently, SHG funding was supplemented also by LASHG, provided directly by LAs themselves. However, LASHG was abolished with effect from April 2003 as part of a wider restructuring of funding resource mechanisms.

In addition to 'traditional' RSL development, affordable housing is also increasingly being provided through planning policies as part of a private residential development. This is particularly the case in London, where land supply is severely restricted (in terms of both low availability and high prices). The involvement of a private developer through the planning system in the provision of affordable housing generally means that an element of private subsidy becomes involved in the funding of affordable accommodation. This is not necessarily the case, as the provision of affordable units could simply involve the sale of either part of the site or some of the completed units to a RSL at market price. Typically, however, some level of private sector subsidy is involved in the transfer of either land or units.

The nature of the private subsidy contribution varies from case-to-case, and research has identified significant variation in this respect (Crook et al, 2002). Where developer contributions are made in the form of a PiL, the subsidy provided is usually readily quantifiable. However, where on-site or off-site contributions are made that involve some form of physical provision of affordable housing the subsidy mechanisms are clear. Contributions range from the provision of land at 'discounted market price' to the provision of completed units 'free of charge' (or at 'nominal charge'), with significant variation in the amount of private subsidy involved. The study of private funding for affordable housing development is notoriously difficult, as it raises complex questions relating to the mechanisms of subsidy and cross-subsidy (Crook et al, 2004a forthcoming). Whilst methods such as the 3D/NTU 'development control

toolkit' (refer on to Section 4.4) seek to determine the level of private subsidy that could reasonably be expected from individual schemes, such 'open-book' accounting is not favoured by the majority of private developers. In reality, it is therefore likely that there is considerable variation in the amount of private funding that is coming forward through planning policies on different individual schemes.

In terms of the way in which the private sector subsidy is provided, affordable housing policy requirements may have a number of potential impacts on the market housing schemes to which they are applied:

- (i) The **capacity** of the site may be increased in order to release 'additional' units for affordable housing provision. For example, planning officers may allow more flats on a site than would otherwise be permitted, so that the affordable housing provision in no way impinges upon the space standards of the market units.
- (ii) The **density** of the site may be increased without extending the overall floorspace of the development. In other words, the dwellings are made smaller in order to accommodate a proportion of affordable units but still deliver the proposed number of market units.
- (iii) The affordable housing element is provided '**in lieu**' of a proportion of the proposed market units, resulting in a reduction in the number of dwellings for private sale or rent.

In the first situation, LA flexibility allows for the private sector developer to accrue the same return as if they had developed a scheme comprising exclusively market dwellings (albeit additional costs may be acquired in providing the on-site affordable housing element, depending on the subsidy arrangement with the RSL). In the latter two scenarios (ii and iii), however, a reduction in either the size or number of market properties occurs. This means that, in a static market, the provision of affordable housing must decrease the return that the developer can make on the site. In the event of either higher densities or fewer market units, the key question emanating from this basic evaluation is who is it that suffers the loss, as it is this reduction in return that amounts to the private sector subsidy. Is it the developer himself, or is it passed back to the landowner in reduced land price?

It has been postulated that it is almost always the landowner who shoulders the reduced profit and thereby provides the private sector subsidy for affordable housing provision. For example, Grant (1999) argues that the profit-driven nature of housebuilding causes competition between new and second-hand housing markets, with costs being passed back to landowners. However, this depends entirely upon land agreements (options) between landowners and developers

being carried out with full understanding of the affordable housing contribution that will be required during the planning process. Although the general planning policy requirement to provide some form of contribution towards affordable is now widely accepted by developers, the exact nature of the subsidy that will be required on a particular scheme is often less clear. Analysis of UDP policies in London (as detailed in Section 2.5) reveals that some affordable housing policies specify the way in which provision should be made, including whether or not SHG will be made available, at what rate, and the level of contribution typically required of the private developer. This means that the cost of providing the affordable housing contribution can be assessed reasonably accurately in a developer's economic appraisal of a prospective development scheme. However, in other boroughs no such clarity exists in the UDP or SPG policies, and it is often only during negotiations with the LA (and in some cases the GLA) following the submission of an application that issues of funding, subsidy, etc are determined. While many commentators have dismissed the notion (for example, Arnold, 1999), it seems entirely probable that there are some circumstances where at least some of the private sector loss is not passed back to the landowner. In these cases, the costs of affordable housing provision are transferred further down the supply chain, either in reduced returns for the developers, or in the form of either increased house prices (or rents) or lost space (because of a reduction in unit size) for the purchasers (or tenants) of the market housing,

As has been intimated in the above discussion, there are some cases where both public funds (SHG) and private sector subsidy are involved in the provision of affordable housing. Crook et al (2002) found that around three-quarters of S.106 sites where affordable housing is provided through the planning system involve the use of SHG. In high-demand areas, such as London, the private sector subsidy is often required solely to bring affordable housing development within the Housing Corporation's cost limits (defined by spatially-variable TCIs). It has therefore been postulated that the main contribution of the planning system in these areas has been to enable or facilitate affordable housing development. The true 'additionality' of S.106 provision has been questioned in this respect, as the affordable housing which results is predominantly funded through 'traditional' SHG mechanisms (Crook and Whitehead, 2002). Crook et al (2002) consider that the main outcome of planning policies has been a change in the geography of affordable housing, enabling provision to be made on sites and in localities that would otherwise be dominated by private properties. The planning system has thereby contributed to the Government's objective of creating more mixed and inclusive communities, but has made only a very limited additional contribution to the provision of affordable housing (ODPM Select Committee, 2003, para. 36).

3.4 Planning system influences

(i) The planning system as a constraint on the supply of land?

During the post-war period, the UK planning system has operated through both forward planning (plan-making) and development control (determination of planning applications) to manage the way in which land and buildings are used. Whilst there have been recent shifts towards a spatial planning approach, the current system continues to operate as a *land use* control mechanism. By requiring planning permission to be obtained for development and making the determination of applications a 'plan-led' concern, land interests have been divorced from land use powers. As a result of this significant control function, the planning system has been criticised throughout its history for being a constraint on development, and hence a hindrance to economic growth. Different political regimes have therefore enhanced or decreased the power of planning controls. Margaret Thatcher's market-led approach to planning is probably the most outstanding example of recent years, including the creation of an explicit policy presumption in favour of development (Circular 22/80). At the same time, her urban policy approach gave Urban Development Corporations (UDCs) free-rein over development control functions within their regeneration areas.

In respect of the planning system's interaction with residential development, including the provision of affordable housing, the key question is whether planning controls have significantly restricted land supply. Under PPG3, local plans are to provide an adequate supply of land for development during their plan period, and should be responsive to changes in need and demand. At the same time, however, the current system of development plans operates very much as a cascade approach, with local-level housing provision being a product of decisions at the county (structure plan) or regional (RPG) tiers. In this sense, the role of LPAs in both allocating sites and determining planning applications is significantly constrained. It could be argued that at the very least the plan-preparation system creates a considerable time-delay, affecting the ability of the planning system to respond to market changes.

There has been considerable debate regarding this issue in the wider literature. Back in 1987, Evans argued that, through controlling the supply of land for development, the planning system prevents housebuilders from responding adequately to demand changes over time. This assertion is based on the empirical analysis of house price inflation compared with household incomes. The 'time lag' between policy-making and policy-implementation was observed in an empirical study conducted by Monk et al (1996). However, the study concludes that while the planning system does operate to constrain the supply of land in general, it is not totally unresponsive to increased demand over longer time periods. Recent reports have been less

sparing in their criticism. Research by the International Monetary Fund (IMF, 2003) found that restrictive planning policies have played a significant role in determining the rigidity of UK housing supply. A similar conclusion has been reached by Barker (2003 and 2004), who criticises the planning system for ineffectively managing the release of land and permission for development. Her recommendations (Barker, 2004) include improvements to the planning system with the principal objective that planning should take more account of market signals. In addition to making better use of information, Barker recommends that greater certainty and speed is required in planning's development control functions. While Barker's review of housing supply focuses primarily on the economics of provision, it is clear that the planning system is considered to have operated in such a way as to constrain land supply and hinder development.

In addition to constraining land supply, concerns have been expressed by some commentators that the planning system has also operated to exacerbate house price inflation. Analysis conducted by Cheshire and Sheppard (1989 and 1997) compares house prices in different locations, depending upon planning control regime. Their findings show that prices vary significantly between areas of 'weak' and 'strong' planning controls, with tight planning regulations serving to increase house prices. A different view is posed by Grigson (1986) on the other hand, who considers that neither land nor house prices can be pushed by the planning system because the vast majority of the housing market comprises 'second-hand' dwellings rather than new-build accommodation. Similarly, Bramley et al (1995) state that market changes are the significant influence upon prices, rather than planning controls, with housing allocations through the development plan process having only a marginal impact on prices.

(ii) Planning policies for affordable housing as a disincentive to housing development?

Section 3.3 revealed that the implementation of affordable housing policies usually results in the provision of some form of private sector subsidy towards affordable housing provision. This subsidy represents an additional development cost to the private sector at some point along the supply chain, whether it is to the landowner, the developer, or the purchaser (or tenant) of the market housing. The cost of affordable housing provision could clearly act as a disincentive to housing development, and the issue of economic viability is therefore one that has been much debated. Considering the London context in particular, research by the University of Westminster and London Residential Research (UW/LRR)(GLA, 2002d) has considered a variety of factors that might influence the delivery of residential development on allocated housing sites. They find that,

"Regarding affordable housing requirements, while planning officers were divided on their significance, most property professionals believed that in some cases, high levels of affordable housing were sufficient to prevent schemes coming forward especially when combined with other cost factors as described above. Some property professionals however, conditioned this view, noting that most housebuilders in London now accepted affordable elements as inevitable and that the land market was adjusting where it was able to, albeit that there remained cases where sites bought in at comparatively high values in a rising market, may subsequently fall foul of changing affordable housing requirements." (2002d, p.19)

The UW/LRR conclude that there is no significant evidence that the provision of affordable housing has deterred developments from coming forward. They consider that most developers accept that an element of affordable housing is 'inevitable', and adjust land values as a result (GLA, 2002d, page iv). Physical difficulties on site, infrastructure costs and site assembly are thought to be more significant problems for residential developers. Likewise, the under-resourcing of borough planning departments is considered to be a major obstacle to speeding up the processing of applications for planning permission.

The question of economic viability has been particularly relevant to discussions regarding site thresholds and targets (quotas) for the application of affordable housing policies. The Draft London Plan proposed a policy that specified target levels for affordable housing contributions from private residential developments (Draft Policy 3A.8). Targets of either 50% or 35% were designated to each of the thirty-three London boroughs. The targets were based on research conducted by 3D/NTU (GLA, 2001), which involved the development of a model to estimate the financial viability of affordable housing delivery in the London boroughs. Based on a residual approach, assuming profit levels of £2 m per hectare, the report concludes that a 50% target is possible in nearly two-thirds of boroughs, with a lower target of 35% in twelve boroughs. The research has received considerable criticism, although 3D/NTU have subsequently reconsidered their approach and stand by their original conclusions (3D/NTU, 2002). Commercial property agents GVA Grimley suggest that the 3D/NTU model represents a gross over-simplification of a complex problem and predict that 50% affordable housing targets would result in a continued shortage of housing and increased house prices, further widening the affordability gap (GVA Grimley, 2001). In October 2001, the City of Westminster commissioned Dunlop Heywood Lorenz and London Residential Research (DHL/LRR) to conduct an analysis of the implications of the 3D/NTU model for their Borough. DHL/LRR conclude that market economics are such that an affordable housing requirement as high as 50% would act as a deterrent to housing development in general and would be counter-productive in terms of overall residential provision and the supply of affordable housing. A comprehensive appraisal of the 3D/NTU model was conducted by ATIS Real Weatheralls (2002) on behalf of the ODPM, the Government Office for London and the GLA. This found a number of technical problems with the model. In particular, they conclude that a single land value across boroughs is inappropriate and instead

suggest a minimum threshold of £3.7 m at the metropolitan boundary, rising towards central London. However, they do consider that the model offers a starting-point for evaluating affordable housing development economics (2002, para. 9.6).

There have been various suggestions that commercial developments should contribute towards the provision of affordable housing, particularly following the Government's Planning Green Paper (2001), which proposed that commercial developers would contribute towards a tariff in a similar way to housebuilders. In its report into *Affordable Housing*, the House of Commons ODPM: Housing, Planning, Local Government and the Regions Committee recommend that commercial developers should be required to make contributions towards affordable housing in order to reflect the demand that their developments will make on local housing markets, and also to avoid the loss of housing sites to other uses (2003, para. 55). While there has been no change in national legislation or policy regarding commercial developments, it appears that in practice some 'mixed use' policies are being implemented in such a way as effectively requires affordable housing contributions from such schemes (Case Study D at Section 5.4 provides a recent example of this approach in London). London Plan Policy 3B.4 specifically promotes the inclusion of an element of housing within mixed use schemes that include commercial uses. It states that,

"Within the Central Activities Zone and the Opportunity Areas, wherever increases in office floorspace are proposed they should provide for a mix of uses including housing, unless such a mix would demonstrably conflict with other policies in this plan. Sub-Regional Development Frameworks (see Chapters 2 and 5) will give further guidance on the relevant proportions of housing and other uses to be sought."

Whilst the primary objective of this policy is clearly to seek to increase the provision of general and affordable housing, a secondary objective may also be to avoid developers opting for commercial development on sites which would be developed for housing if not for the affordable housing contribution that would be required alongside (as indicated in the above Committee Report recommendation).

The London Plan's mixed-use policy approach has been studied by London Residential Research and CD Richard Ellis (LRR/CBRE, 2004). Their research considers the effectiveness of a policy requiring 50:50 of office and housing development by floorspace, similar to those included within Westminster and Camden's UDPs. They recommend that for the City, City fringe locations (Islington, Hackney, Tower Hamlets and Southwark) and the Isle of Dogs, an 'off-site commuted payment' policy should be applied in order *"to ensure that office developers remain incentivised to build the largest possible office schemes, such that profitability increases with size"* (2004, p. 9). LRR/CBRE conclude that the mixed use policy is legitimate, so long as it

does not hinder desirable development. However, they provide comment upon a related issue, which is particularly relevant in considering the impact of planning policies:

"...The report also highlights a related, but entirely unsatisfactory situation. This is the situation, which is quite common in the City fringe, where sites with office permissions have remained derelict or under-used for literally decades. Although the extant office permissions cannot, for the foreseeable future be built out as offices, for viability and funding reasons, nor can they be build as residential, for which there would be strong demand. This is because affordable housing policy is depressing the residual land value below the level at which the owners would be prepared to sell." (2004, p. 10)

The report considers that it is the absence of any significant planning obligations attached to the extant office development planning permissions that is creating "a serious market distortion" and preventing any form of development on it (2004, para. 10). In other words, the permitted office developments remain, in principle, more profitable to landowners than residential development because of the additional development costs that would be associated with the latter as a result of affordable housing policies. In practice, however, there is insufficient market demand for the permitted office schemes, so no development is taking place. These findings have serious implications in terms of evaluating the economic impact of planning policies requiring affordable housing. Creating further planning policies to influence the economics of commercial development (i.e. to place similar requirements on office schemes as are currently applied to residential developments) is an interesting approach to creating a more 'level market' in order to solve the problem.

(iii) Planning as creating a culture of market-dependence, doomed to failure?

As discussed earlier in this chapter, a considerable and increasing proportion of affordable housing development in London is now taking place through the implementation of planning policies. There is substantial anecdotal evidence to support the view that the majority of housing development sites in London are too expensive for RSLs to acquire for the development of 100% affordable housing schemes (Crook et al, 2004a forthcoming). Whilst LA land resources in some boroughs provide a reasonable supply of potential housing sites, affordable housing providers often struggle to compete with other developers in the bidding process. This has led to a growing 'dependence' by RSLs on the planning system to bring forward regular opportunities for affordable housing development. Likewise, in respect of funding for development, private sector subsidy is increasingly being required of developers just to bring affordable housing provision within the Housing Corporation's TCI level. This suggests a growing reliance on the planning system to add to the 'pot' of funding for affordable housing delivery, whether through on-site subsidy, direct financial contributions for off-site provision, or PiL to top-up other schemes. Although there is a lack of research on these issues, recent analysis by Crook et al (2004b, forthcoming) has found that affordable housing provision in

London using public funds alone (i.e. without any private subsidy through the planning system) fell from 82% of total completions in 2000/01 to 55% in 2002/03. This implies that by 2002/03, almost half (the remaining 45%) of affordable housing completions in London involved some form of private subsidy.

Dependence on the planning system implies a reliance also on the private market. Whilst this may have considerable financial benefits at the present time for affordable housing provision, the longer-term implications are less clear. Recent years have witnessed a 'boom' period in the UK housing market, but this sector is acknowledged to be inherently unstable (GLA Economics, 2003). If market slow-down or decline occurs in the future, with profits from residential development schemes decreasing correspondingly, then it is conceivable that the private sector will be unwilling to contribute towards affordable housing because of the increased risk involved. This is observed by Barker in her Interim Report:

"...Section 106 requirements mean that the supply of affordable housing is dependent upon the rate at which the private sector develops. In a less buoyant market housebuilders may hold off from taking development forward and affordable housing will simply not be built."(2003, para. 10.25)

There is therefore a clear danger in creating and fostering a climate whereby the housing market is the predominant driver of affordable housing supply.

3.5 Overcoming affordable housing delivery constraints through planning policies?

There is a considerable need for affordable housing in London at the present time, but the supply of affordable accommodation is restricted by significant land and funding constraints. New-build completions by RSLs have remained at a reasonably stable level in recent years, despite increasing contributions as a result of planning policies. The planning system accounts for a growing proportion of new affordable housing units, but the majority of these dwellings are not truly 'additional' in terms of total outputs, with many S.106 completions requiring public sector subsidy. There is therefore a mounting dependence on the planning system to release private sector subsidy and deliver a regular supply of both development sites and finances for affordable housing.

While the planning system is successfully being harnessed to release significant 'gains' for affordable housing provision, this is not without its impacts on development. Although there is much diversity of opinion on the subject, it is clear that planning policies do have some effect on economic development. That is not to say that all of these effects are negative. The fundamental reason for the planning system is to control the use of land in order to achieve a

balance between economic, social and environmental objectives, which implies that the market will not always take precedence in the determination of development proposals. However, various research and literature sources suggest that the planning system is overly constraining the supply of land for residential development, and this has significant implications for the delivery of affordable housing. Although the specific effects of the planning system on land and house prices is perhaps less clear, the operation of affordable housing policies are certainly causing a depression of residual values for residential development on some sites in London. Occasionally, this is resulting in alternative land uses being proposed for potential housing sites, or is preventing sites from being brought forward for development altogether.

These general development constraints and policy implications provide an important context to assessing the operation of current system and evaluating future policy options.

Chapter 4

Planning Policies for the Provision of Affordable Housing in London

This chapter considers the current policy framework for the provision of affordable housing through the planning system in London. Section 4.1 sets out the basis for affordable housing policies in development plans. It analyses the justification that exists at national and strategic levels for borough UDP policies requiring contributions towards the provision of affordable housing. Sections 4.2 then provides an overview of borough-wide trends in local level affordable housing policies. This is followed by Sections 4.3 and 4.4, which consider policy thresholds and targets (respectively). Borough policies are analysed in the light of the national and strategic planning framework. Section 4.5 looks at policies that deal specifically with PiL of on-site affordable housing provision. As a whole, Chapter 4 provides an assessment of the planning policy framework for affordable housing through the land use planning system in London, and the main findings and their implications are drawn out in Section 4.6.

4.1 The basis for affordable housing policies in development plans

Section 54A of the Town and Country Planning Act 1990 (inserted by Section 26 of the Planning and Compensation Act 1991) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. This is the legal basis of the UK's 'plan-led' system of development control. In the case of the London boroughs, this means that the starting point for determining applications for planning permission is the local borough UDP. In addition, the strategic London Plan (2004) is a material consideration, although it does not form part of the development plan until the commencement of the Planning and Compulsory Purchase Act 2004 (in September 2004). Under the Town and Country Planning (Mayor of London) Order 2000, borough UDPs are required to be 'in general conformity' to the policies within the London Plan. The Mayor also has planning powers in respect of the determination of applications deemed to be of 'potential strategic importance'; such applications are required to be referred to him and he has the power to direct refusal. The policies within the London Plan are therefore of fundamental importance in considering the planning policy framework of the boroughs. Any proposed residential development, whoever the developer (whether a private housebuilder or a RSL), is considered by the relevant LPA in

the context of policies within both the local UDP and the strategic London Plan, and in the light of national planning guidance.

National planning policy is issued by Central Government, both in Planning Policy Guidance Notes (PPGs) and Departmental Circulars. PPG3 (Revised 2000) deals with housing development, and includes policies relating specifically to affordable housing. Circular 06/98, *Planning and Affordable Housing*, comprises additional advice to LPAs on the provision of affordable housing through the planning system. These national policy documents both provide LPAs with guidance for the preparation and implementation of local-level policies for the provision of affordable housing through the planning system.

PPG3 seeks the development of mixed and inclusive communities that offer a choice of housing and lifestyle. LPAs are encouraged to promote the development of balanced communities, ensuring that new housing developments help secure a better social mix by avoiding the creation of large areas of housing of similar characteristics (para. 10). PPG3 sets the policy justification for requiring a contribution towards affordable housing from general residential development schemes, stating that,

"A community's need for a mix of housing types, including affordable housing, is a material planning consideration which should be taken into account in formulating development plan policies and in deciding planning applications involving housing." (para. 14)

PPG3 states that local plans and UDPs should include a policy for seeking affordable housing in suitable housing developments where there is a demonstrable lack of affordable housing to meet local needs (para. 14). Whilst PPG3 refers to Circular 06/98 for more detailed policy on planning and affordable housing, it does specifically state that,

"Where a local planning authority has decided ... that an element of affordable housing should be provided in development of a site, there is a presumption that such housing should be provided as part of the proposed development of the site. Failure to apply this policy could justify the refusal of planning permission." (para. 17)

Circular 06/98, *Planning and Affordable Housing*, amplifies the Government's preferred approach to planning and affordable housing. It restates the policy that a community's need for affordable housing is a material planning consideration in both formulating development plan policies and deciding planning applications (Circular 06/98, para. 1). It states that, where local plans include a policy seeking an element of affordable housing on suitable sites (where there is evidence of local housing need), such policies will also be a material consideration in determining an application for planning permission. In a sense, national planning guidance creates a 'double' material consideration in respect of affordable housing:

- (i) development plan policies relating to affordable housing provision; and
- (ii) the need of an existing community for affordable housing.

Any development plan policies adopted by a LPA in respect of affordable housing provision will be a material consideration in determining applications for planning permission for residential development. In addition, the very existence of local housing need forms a second, 'back-up' material consideration. Even where LPAs have not reviewed their local plan or UDP to include a policy relating to affordable housing, a community's need for affordable housing still provides a material consideration in the determination of planning applications. This interpretation is clarified by paragraph 38 of PPG3, which states that,

"In considering planning applications for housing development in the interim, before development plans can be reviewed, local authorities should have regard to the policy contained in this PPG3 as material considerations which may supersede the policies in their plan (see paragraph 54 of PPG1)."

The establishment of a double material consideration is relevant as we look at borough UDP policies for the provision of affordable housing. Even when UDPs are considerably out-dated, PPG3 and Circular 06/98 provide a clear policy for development control practice. Another implication of this point is that even a thorough analysis of local-level planning policies does not necessarily provide an accurate portrayal of borough approaches to considering and determining applications for planning permission. Whilst this chapter seeks to analyse policies, the following chapter (Chapter 5) therefore looks at how these policies are actually being outworked in practice.

Turning from national to strategic level policies, one of the Mayor's objectives for the capital is to increase substantially the supply of affordable housing (London Plan, para. 3.30). Chapter 3A of the London Plan includes policies relating to the provision of affordable housing through the planning system, some of which are reviewed in Section 1.4. Policy 3A.6 deals with the definition of affordable housing, and requires UDP policies to define affordable housing. It states that UDP policies should ensure that new affordable housing provision seeks to meet the full spectrum of housing need. Policy 3A.7 sets out the Mayor's strategic target for affordable housing development in London, which is that 50% of housing provision should be affordable. Within this overall target, 70% should be social housing and 30% intermediate provision. The promotion of mixed and balanced communities is a stated objective within this policy. LPAs are required to set overall targets for affordable housing provision over the plan period in their area, *"based on an assessment of all housing needs and a realistic assessment of supply"* (Policy 3A.7).

The importance of a clear understanding of housing need is therefore emphasised in strategic, as well as national, policy guidance. Private residential development negotiations, secured through planning agreements or conditions, are identified in Policy 3A.7 as one potential source of affordable housing supply. Policy 3A.8 deals specifically with negotiating affordable housing in such private residential and mixed use schemes and states that boroughs should seek the maximum reasonable amount of affordable housing when negotiating on individual private residential and mixed-use schemes.

4.2 Borough affordable housing policies

The questionnaire survey found that, of the 27 boroughs that responded to the survey, 100% state that their borough UDP includes a policy on affordable housing (Appendix 3A) and 59% state that they have supplementary planning guidance (SPG) in place relating to affordable housing provision (Appendix 3B). This is in line with other recent research studies on affordable housing. At the national level, both Campbell et al (2000) and Crook et al (2002) found that a large proportion of LPAs had policies on affordable housing included within their adopted or emerging local plans and UDPs.

A desktop review of borough development plans and policy documents has been conducted (Appendix 1). It has been found that, whilst all boroughs have an adopted UDP, these vary significantly in terms of how up-to-date they can be considered to be. Ten of the thirty-three boroughs have adopted UDPs dating back to between 1991 and 1995; twelve have UDPs that were adopted between 1996 and 1999; and the remaining eleven boroughs have adopted UDPs that date from 2000 to 2004. In 21 London boroughs the UDP is currently in the process of being reviewed, with considerable variation in the stages reached by different boroughs in the review process. Some boroughs have adopted their emerging UDP documents 'for development control purposes'; in other cases review has not yet reached first deposit stage.

As noted above (Section 4.1), national planning guidance requires that local plan and UDP policies for seeking affordable housing should be justified by evidence of a demonstrable lack of affordable housing to meet local needs. PPG3 states that this demonstrable lack of affordable housing must be assessed by up-to-date surveys and other information (para. 14). Circular 06/98 states need should be clear from the assessments used to develop the LPAs housing strategy, although additional information may also be required (Circular 06/98, para. 5). National guidance makes it clear that the responsibility for conducting assessments of housing need for local plan policies lies with LAs themselves (PPG3, para. 13 and Circular 06/98, para. 7). This approach is also emphasised by the London Plan (Policy 3A.7). In other words, Councils cannot simply adopt development plan policies to seek affordable housing without

there being clear evidence that proves the existence of local needs to justify its provision. In spite of the 'indirect' nature of the link between the development of market housing and the provision of a contribution towards affordable housing in planning obligation terms (under the 'necessity test', Circular 01/97), provision is warranted by the existence of a local need for affordable accommodation. It is a community's need for a mix of housing types that forms the key material consideration in this respect.

The importance of a housing needs survey (HNS) to demonstrate local need is illustrated by national trends in policies for affordable housing. Crook et al (2002) observe that those LPAs that did not have affordable housing policies within their local plan or UDP were usually those with a lack of identified need in their local area and therefore no legitimate policy justification. These LPAs were located predominantly in the North of England, where the supply of affordable housing is significantly higher and demand considerably lower. In the case of London, the questionnaire survey found that, whilst 100% of responding boroughs have development plan policies relating to affordable housing, 89% have a HNS (Appendix 3C). These surveys vary significantly in terms of how up-to-date they can be considered to be, however, ranging in date from 1998 to 2003. While almost a fifth (18%) of boroughs have a HNS dating back to 1998 or 1999, a third (33%) have surveys dated 2002 and 2003. The majority of HNSs are relatively up to date, with almost three-quarters (71%) of respondents stating that their borough has a HNS dated between 2000 and 2003 (inclusive).

4.3 Borough policy thresholds

Paragraph 10 of Circular 06/98 provides various criteria for assessing the 'suitability' of sites for affordable housing provision, to inform the preparation of plan policies. This includes guidance on 'thresholds', which relates to the size of proposed developments above which affordable housing policies will usually be implemented. In this respect, Circular 06/98 states that,

"In practice the policy should only be applied to suitable sites, namely:

- (a) Housing developments of 25 or more dwellings or residential sites of 1 hectare or more, irrespective of the number of dwellings;*
- (b) In Inner London [City of London, City of Westminster, and the London Boroughs of Camden, Hackney, Hammersmith and Fulham, Haringey, Islington, Kensington and Chelsea, Lambeth, Lewisham, Newham, Southwark, Tower Hamlets and Wandsworth], housing developments of 15 or more dwellings, or residential sites of 0.5 of a hectare or more, irrespective of the number of dwellings..."(para. 10 (i))*

Some flexibility as to the setting of site threshold levels in local policies is provided for in the guidance, although this comprises a minimum threshold of 15 units or 0.5 hectares:

"The Secretary of State considers that it may be appropriate for local planning authorities where the higher threshold (at (a) above would apply, and would be able to demonstrate exceptional local constraints, to seek to adopt a lower threshold (between the levels of (a) and (b) above). Such constraints must be demonstrated, and proposals to adopt a lower threshold must be justified through the local plan process." (para. 10 (i))

Additionally, it is specifically stated that the Circular does not preclude developers from providing affordable housing on sites which are below the size thresholds set out, and that the Government encourages developers to consider such provision where they think it is feasible and appropriate (para. 11).

Proposed Changes to PPG3 were issued in July 2003, as noted in Section 1.2. *'Influencing the Size, Type and Affordability of Housing'* proposes replacements to paragraphs 9-20, 71 and Annex B of PPG3, and the cancellation of DETR Circular 06/98. Alongside other proposed changes, the document suggests a reduction in the threshold for the application of affordable housing policies, so that the policy approach would be that affordable housing should not "normally" be sought on developments of less than 15 dwellings, or sites of less than 0.5 hectares. In addition, LPAs would be able to seek affordable housing provision on developments of less than 15 dwellings or sites smaller than 0.5 hectares, although this would have to be justified in the local plan or UDP (paras. 10 and 11). Regarding strategic policy, the London Plan intentionally does not set a London-wide threshold level (para. 3.45), although supporting text indicates a strong reliance on the Government's Proposed Changes to PPG3:

"In that context and taking into account recent draft guidance, boroughs should set thresholds above which affordable housing requirements will apply at no greater than 15 units, and are encouraged to seek a lower thresholds through the UDP process where this can be justified. Boroughs are encouraged to ensure that the affordable housing requirement applies to any site which has the capacity taking into account other policies of the plan to provide the minimum number of dwellings set in their threshold."*(para. 3.46)

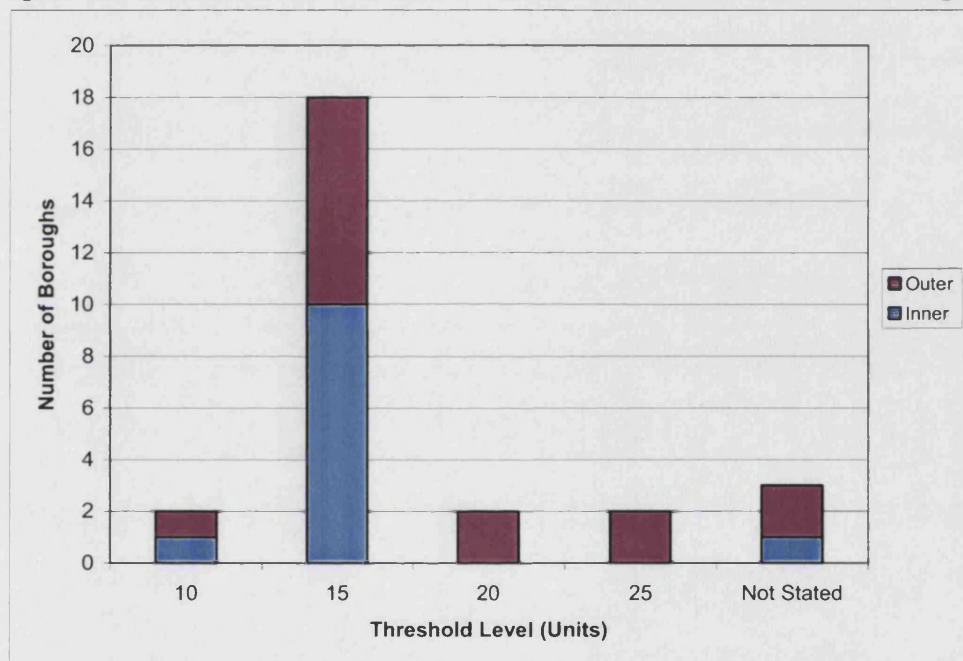
(*reference to Proposed Changes to PPG3, as set out in the consultation paper, *'Influencing the Size, Type and Affordability of Housing'*, July 2003)

Until superseded, the national framework for planning policies on housing continues to be provided by PPG3 (2000), which sets a threshold of 15 units (0.5 hectares) only for inner London boroughs, with outer London boroughs falling under the same policy requirements as other LPAs (at 25 units or 1 hectare). The above quote shows that the Mayor is explicitly recommending that all boroughs, both inner and outer, set thresholds of no more than 15 units, preferably lower. This illustrates something of the confusion that exists at the present time in terms of what constitutes 'official' Government policy. PPG3 and Circular 06/98 are in many ways considered to be out-dated, but it remains somewhat premature to adopt policies on the

basis of proposed changes that were issued for public consultation over a year ago and but have not yet been finalised.

Figure 4.1 shows the threshold levels (in units) of the London boroughs who responded to the questionnaire survey. It shows that, of the 27 responses, 18 boroughs have a threshold of 15 units. This represents 67% of the boroughs. Only a total of 4 responses (15%) have thresholds of 20 or 25 units, with 3 responses not having a stated threshold in their affordable housing policy. It is interesting to note that two boroughs (one inner and one outer) have stated that their threshold level is just 10 units, which is lower than is allowed under current national policy guidance.

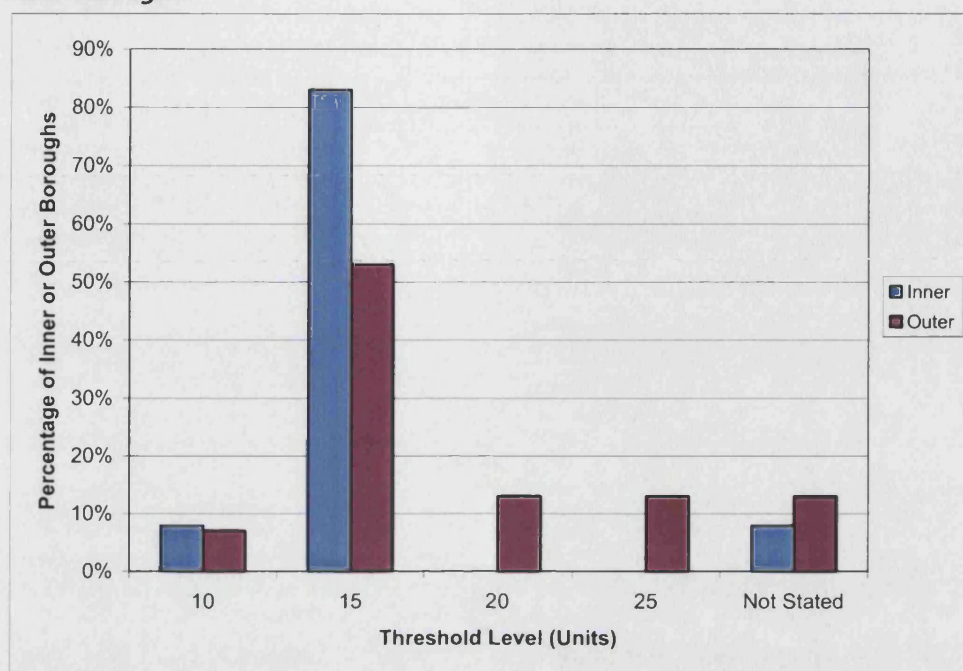
Figure 4.1: Stacked bar chart to show threshold levels in outer and inner boroughs



Source: author's questionnaire survey

Figure 4.2 allows a clearer comparison to be made between the responses of inner and outer London boroughs. It shows that 83% of inner boroughs have a threshold of 15 units, which is the current national guidance threshold level for these LPAs. However, whilst current guidance recommends a threshold of 25 units for outer London boroughs, 53% of outer boroughs responding to the questionnaire survey have a threshold level of 15 units.

Figure 4.2: Clustered bar chart to show percentage threshold levels in outer and inner boroughs



Source: author's questionnaire survey

These findings show that many boroughs are operating thresholds at levels below those set out in national planning guidance. 60% of outer boroughs have thresholds of either 10 or 15 units, rather than the 25-unit minimum of Circular 06/98. The Proposed Changes to PPG3, which suggest reducing the national threshold to 15 units, will not have a significant effect on many borough UDP policies in London. Indeed, the Mayor has already stated that this should be a London-wide borough minimum in the finalised London Plan (para. 3.46, quoted above). This suggests that national guidance is following the trends of local practice, rather than setting the direction for policy. This is in common with much of the history of affordable housing policy through the 1980s and 1990s, where *"policy formulation was, more often than not, reactive rather than pro-active with successive guidance lagging some way behind contemporary debate"* (Gallent, 2000, p. 136).

4.4 Borough policy targets

PPG3 states that local plan policies for affordable housing should indicate how many affordable houses need to be provided throughout the plan area. Local policies should also identify suitable sites on which affordable dwellings are to be provided and indicate the amount of provision that will be sought (para. 15). Similarly, paragraph 9(b) of Circular 06/98 requires plans to indicate the number of affordable houses needed. It also states that plans should,

"set indicative targets for specific suitable sites (expressed either as numbers of homes or a percentage of the homes on the site), and indicate in the plan the intention to negotiate with developers for the inclusion of an element of affordable housing on such sites". (para. 9(a))

This guidance implies that, where necessary, plan policies should include both *overall* targets for affordable housing development over the LA area during the plan period, and *indicative* targets (quotas) for housing sites. In respect of the latter, the guidance refers to "*specific*" suitable sites (Circular 06/98. para. 9(a)) and "*identified*" sites (PPG3, para. 15), implying the setting of indicative targets as relating to sites allocated for housing development in the plan. No mention is made of setting general indicative targets ('quotas') in policies for the provision of affordable housing on 'windfall' housing sites (i.e. unallocated sites, or sites allocated for an alternative use, that come forward for residential development subsequent to the adoption of a local plan or UDP).

London Plan Policy 3A.7 sets a strategic target for affordable housing at 50% of total housing provision in London. Supporting text states that the Mayor has set the overall strategic framework for establishing borough-level targets to provide a consistent basis for seeking affordable housing. It states that,

"boroughs should set an overall target for the amount of affordable housing provision over the plan period in their area, based on a comprehensive assessment of need and a realistic and comprehensive estimate of supply." (para. 3.39)

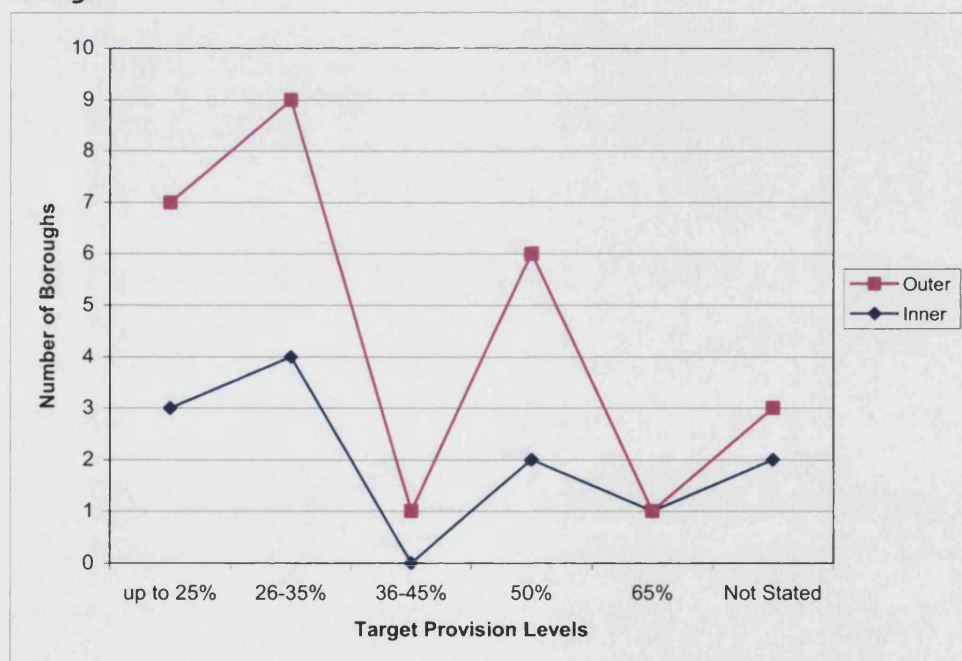
Affordable housing within private residential development is considered in Policy 3A.8. Whilst advising that boroughs should seek the maximum reasonable amount of affordable housing when negotiating on residential and mixed-se schemes, this policy specifically requires boroughs to take into account the need to encourage, rather than restrain, residential development and the individual circumstances of the site. It states that "*targets should be applied flexibly, taking account of individual site costs, the availability of public subsidy and other scheme requirements*" (Policy 3A.8). Supporting text to Policy 3A.8 advises that boroughs should take into account economic viability and the most effective use of private and public investment in estimating provision from private residential and mixed-use developments. It is suggested that the 'development control toolkit' developed by Three Dragons and Nottingham Trent University (3D/NTU) is one mechanism that will help. This comprises a model for assessing the development economics of providing affordable housing on individual sites and is designed to assist negotiations between LPAs, developers and RSLs.

The issue of overall and indicative (quota) targets is important. Review of borough UDP policies on affordable housing indicates that there is some considerable variation in the way in which

targets are dealt with. Some boroughs have an overall target, similar to the strategic target of 50% in the London Plan. Boroughs will seek to meet this overall target through the provision of affordable housing from a variety of mechanisms and sources, including provision through planning obligations when granting planning permission for private residential schemes. In addition, some boroughs have an indicative target (quota), which represents the proportion of any individual private residential scheme that the Council will seek to be provided in the form of affordable housing. This is usually in the form of a percentage of total housing units on a site, although some boroughs define the target with reference to a percentage of habitable rooms. Those boroughs that do not specify an indicative target in their UDP policy may still have a 'ball-park' target that they work to in negotiations with developers. This may be synonymous with the overall target, it may be stated separated in non-statutory SPG, or it may not be stated in any policy documentation.

Figure 4.3 shows the questionnaire survey responses in respect of target (quota) levels in inner and outer London boroughs*.

Figure 4.3: Stacked line graph to show target provision levels in outer and inner boroughs

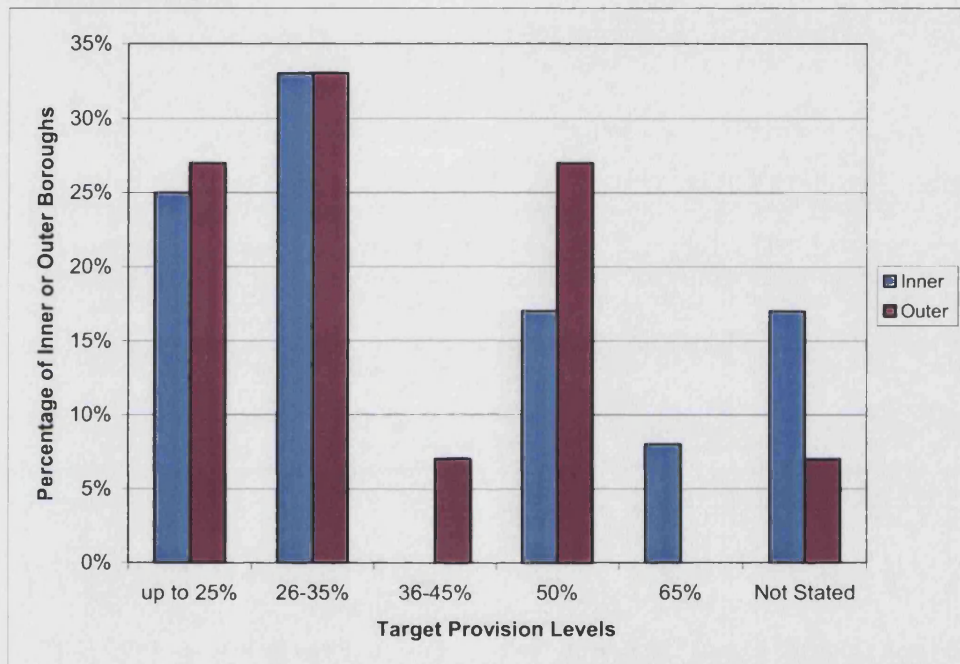


Source: author's questionnaire survey

* The question relating to this data provides a 'blank-box' for responses; the banding of responses has been introduced only at the analysis stage.

Figure 4.3 shows that the most popular target level overall is the '26-35% band', which represents nine out the twenty-seven responses, i.e. 33% of all responses. The second most popular target level is 'up to 25%', with seven responses, representing 26% of the total. The '50%' target level is the next most popular, with six responses, which represents 22% of all responses. Three boroughs, i.e. 11%, do not state a target level for affordable housing provision.

Figure 4.4: Clustered bar chart to show percentage target provision levels in outer and inner boroughs



Source: author's questionnaire survey

Figure 4.4 provides a more direct relative comparison between the inner and outer London boroughs in respect of targets. It shows that the '26-35%' band is the most popular target level for the inner and outer boroughs groups individually, as well as in total overall. This band represents one-third of the respondents in both groups. It is interesting to note the difference between the inner and outer borough groups in respect of the other target provision bands. Whilst the 'up to 25%' target represents a significant proportion of both groups of responses, at 25% of inner boroughs and 27% of outer boroughs, there is a significant difference at the '50%' target level. The '50%' target level represents only 17% of responding inner boroughs, compared with 27% of outer boroughs. The highest stated target level is '65%', although this represents only one borough, namely the inner borough of Hammersmith and Fulham. This last finding relates back to the issue regarding overall and indicative targets in UDP policies. Review of UDP policies (Appendix 1) reveals that Hammersmith and Fulham have an overall target for

the borough of 65% in their adopted UDP, but beyond this their affordable housing policy does not specify an indicative target for application on a site-by-site basis. This finding serves as a caution in any analysis of borough's targets, as there is clearly scope for considerable confusion between overall and indicative (quota) targets and therefore not all of the responses may be entirely comparable.

4.5 Policies for 'payments in lieu' (PiL)

Both PPG3 and Circular 06/98 set out a clear policy preference for the on-site provision of any contribution towards affordable housing. Paragraph 17 of PPG3 states that,

"Where a local planning authority has decided, having regard to the criteria set out in paragraph 10 of Circular 6/98, that an element of affordable housing should be provided in the development of a site, there is a presumption that such housing should be provided as part of the proposed development of the site. Failure to apply this policy could justify the refusal of planning permission."

This statement is very similar to that within Circular 06/98, at paragraph 24, which states that,

*"Where a local planning authority considers, having regard to the policy in this Circular, that certain sites are suitable for inclusion of an element of affordable housing and an application does not make such provision **as part of the proposed development**, such a failure could justify the refusal of planning permission."* (emphasis as in document)

Neither PPG3 nor Circular 06/98 discusses the circumstances that would make 'alternative' forms of provision, as opposed to on-site affordable units, acceptable in policy terms. The Government have sought to meet this 'gap' in the Proposed Changes to PPG3. Whilst reasserting the presumption in favour of on-site provision, the Proposed Changes do address alternatives, stating that this presumption should be set aside only in a limited number of circumstances, which should be set out in the development plan. Examples of such circumstances are provided and include where,

- *"the affordable housing is more effectively secured by bringing existing housing back into active use;*
- *management of the affordable housing on site cannot be secured effectively;*
- *and*
- *providing the affordable housing elsewhere in the plan area is more likely to widen housing choice and encourage better social mix."* (2003, para. 13)

There is limited current national guidance on the use of PiL, and no advice on the preparation and adoption of policies on the issue. Despite this, the questionnaire survey found that 67% of boroughs questioned have a policy relating to the acceptance of PiL (Appendix 3D). PPG3

(2000) refers to the monitoring of affordable housing policies and states the need for LPAs to keep,

"accurate and up-to-date information on the amount of affordable housing produced through the planning system, or (where this is exceptionally the case) contributions towards the provision of such housing, secured by the authority." (para. 19, emphasis added)

This statement makes clear that alternative provision should be in 'exceptional' circumstances only, although it is left largely to the discretion of the decision-maker as to what circumstances should be considered applicable in this respect. In discussing alternative forms of contribution to the on-site provision of affordable units, Circular 06/98 states that these arrangements should not be used in respect of application sites which are *"inherently unsuitable"* for the provision of an element of affordable housing, such as those below the site threshold and other criteria set out in paragraph 10 (para. 22). Alternative provision should therefore only take place in cases where the development site is both 'suitable' to make a contribution towards affordable housing and some 'exceptional' circumstances exist.

Circular 06/98 (para. 23) sets out two alternative approaches for the provision of affordable housing through planning obligations. Either the developer should make the contribution towards the costs of providing affordable housing on a different site ('off-site' provision), or the developer should pay a sum (or sums) to the LPA for the purpose of meeting or contributing towards the costs of affordable housing ('PiL', also known as 'commuted sums'). While developers may choose to make affordable housing provision on an alternative site, there is also the clearly stated option of providing a financial contribution, with no further responsibility on the side of the developer in respect of the physical provision of the affordable housing. Indeed, the obligation for provision in this latter case lies firmly with the LA, once developers have provided the agreed sum of money; Circular 06/98 (para. 23) explicitly requires planning obligations in respect of such financial contributions to include a covenant to the effect that the sum (or sums) will be repaid to the developer on or by a specified date if they have not been used for the purpose for which they were given.

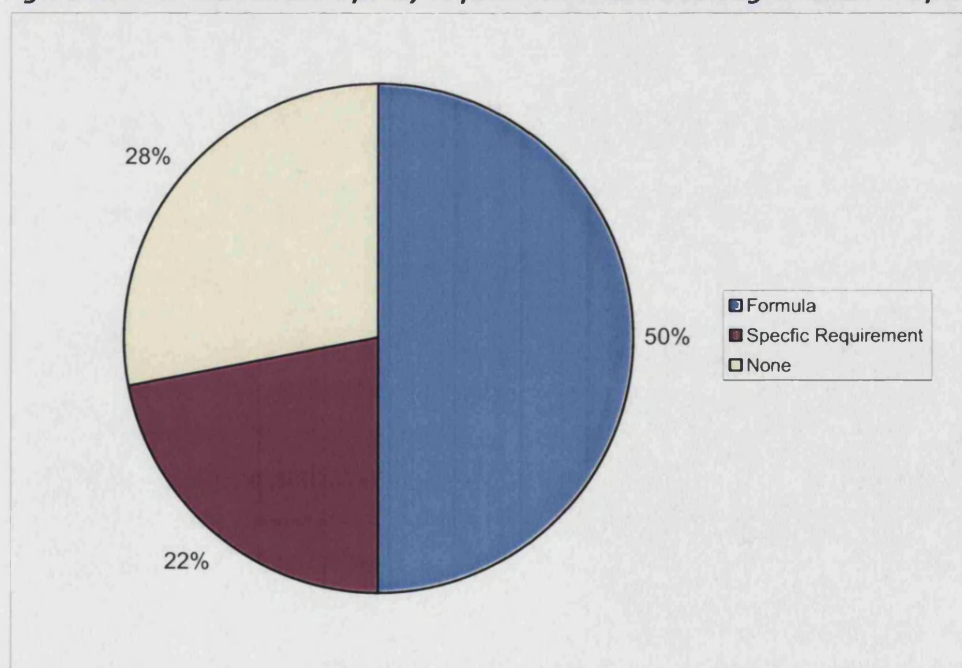
The London Plan is more straightforward in dealing with the issue of financial contributions. There is no specific policy reference to PiL, but they are discussed in the supporting text. This states that,

"In certain exceptional cases a borough and a developer may consider that the required affordable housing should be provided off-site, or that a financial contribution instead of on-site provision, is acceptable." (2004, para. 3.47, emphasis added)

The concept of 'exceptional' circumstances being required to justify off-site or financial contributions is made clear. In addition, the London Plan provides some examples of potential cases that may be considered to be exceptional. It suggests that these may include sites where there are existing concentrations of particular types of social housing and there are particular benefits to be gained by providing the new units in a different location, so as to create more balanced communities, or to provide a particular type of housing, such as family housing. It is also states that it may be "*more reasonable*" to consider a financial contribution from a small site rather than seeking on-site provision (para. 3.47).

At the local level in London, policy analysis has found that the majority of UDP or SPG policies relating to PiL state that such arrangements will only be made in 'exceptional' circumstances (Appendix 1). The presumption in favour of on-site provision within both national and strategic policy is clearly maintained in local development plans in London. Policy Example A (Appendix 4) provides an example of identified constraints that may allow acceptance of either off-site provision or a PiL. In this case these include the unavailability of complementary social housing grant (SHG) funds; planning and environmental constraints on building configuration or management; and site and layout constraints, residential character, or market considerations. This represents a reasonably broad remit of considerations, and implies substantial LPA discretion.

Figure 4.5: Pie chart to show policy requirements where boroughs have a PiL policy



Source: author's questionnaire survey

In terms of PiL policy requirements, Figure 4.5 shows the findings of the questionnaire survey. It shows the various approaches adopted by those 67% of boroughs that have a policy relating to PiL. Of these boroughs, 50% have a formula for calculating the value of the sum required, whilst 22% state that their policy includes some form of specific requirements for finances towards provision.

Policy analysis supports these findings (Appendix 1), with formulae approaches being very popular in UDP and SPG policies on PiL. This reveals that several PiL formulae include 'higher-rate' developer contributions, above the levels of contribution that are sought when provision is made on-site. This approach has recently been observed by Crook et al (2004a, forthcoming). Policy Examples A and B (Appendix 4) both have requirements that vary between on- and off-site provision. Example A states that PiL contributions may vary depending on the constraints to on-site provision and the degree to which the Council wants to encourage in situ provision. Where the constraints are considerable, the Council are likely to request an 'equivalent' contribution, whereas where the Council would prefer on-site provision, a higher financial contribution may be required. A typical case is given where 40% on-site provision is required, but this could correspond to 56% as a PiL if the Council took the view that on-site provision was preferable. This policy approach clearly indicates a 'deterrent' principle. Policy Example B sets out a requirement for one affordable housing unit to be provided for every three units developed, however the contribution is made. In this way the policy equates to 25% of units if affordable housing is provided on-site, but 33% if provision is made off-site (presumably including both alternative sites and PiL). Whilst this would seem to infer a deterrent to off-site provision, as in the case of Example A, the policy approach stated in Example B actually seeks to encourage off-site provision in some cases. A map indicating areas in the borough where there is already a high proportion of social rented housing supplements the policy. The policy seeks to direct additional affordable housing provision away from these areas, and towards other areas instead. The fundamental principle driving the policy in this case is therefore the creation of balanced and inclusive communities through control of tenure mix.

Policy analysis reveals that specific requirements are stated in some PiL policies (Appendix 1). This supports the findings of the questionnaire survey, which indicate that just over one-fifth of boroughs with a PiL policy seek specific levels of contribution from developers, rather than following a formula approach. Policy Example C (Appendix 4) sets out a 'sliding-scale' of PiL requirements for residential development schemes including between 15 and 24 units. The specific financial requirements set out relate to the Housing Corporation's TCIs for the borough, and therefore change annually. This approach therefore allows policy requirements to increase on a more regular basis than the review of UDP policies. Example C includes spatial variation in the level of PiL contributions that will be sought from developers. In specific identified high-

value areas, the financial contribution required is increased by 33.3% compared to elsewhere in the Borough.

4.6 Policy parameters for affordable housing in London?

The UK planning system is structured so that for any given area there should be a clear policy framework in place relating to specific core development issues, such as the environment, industry and housing. This framework comprises national, strategic (or regional) and local policies, each of which should complement the others. In the case of London, therefore, national guidance should establish the overall policy parameters, with strategic policies setting the London-wide context and local UDP policies setting out mechanisms for delivery at the borough level. Although guidance and plans are of necessity reviewed at different times, preventing a neat sequencing approach to policy preparation, the fundamental principle remains that there should be an overall cascade in terms of policy objectives, from national to strategic and then to local level. It is clear from the findings of this chapter that planning policy for affordable housing does not sit well with this view of the system, at least in the case of London. It appears that boroughs prepare and adopt policies on a predominantly pragmatic basis, presumably for the purpose of overcoming perceived obstacles and maximising affordable housing provision through the planning system. The detailed parameters of national planning guidance are often left to one side in order to increase private sector contributions and achieve mixed tenure developments at the local level.

Chapter 5

Affordable Housing Policies in Practice

This chapter considers the way in which policies for the provision of affordable housing through the planning system have been operating in practice. The first section (Section 5.1) analyses the quantitative achievements of the planning system in securing affordable housing provision, including the particular contributions that have come through PiL. Section 5.2 goes on to look at the way in which borough policies, as discussed in Chapter 4, have been outworked in practice and the different approaches that LPA's have adopted in seeking to achieve their UDP objectives for affordable housing. Section 5.3 assesses the way in which PiL funds have been used by the boroughs, with Section 5.4 providing case studies of specific developments that have been granted planning permission on the basis of an agreement to provide a PiL contribution.

5.1 Quantitative outputs

Total affordable housing completions in London in the three years 2000/01, 2001/02 and 2002/03 are shown in Figure 5.1, including an indication of the number and percentage of these units that have been developed as a result of planning policies for affordable housing. This data, taken from the ODPM Housing Investment Programme (HIP) Returns, suggests an average of just over 7,500 affordable housing unit completions per annum in the three-year period 2000/01 to 2002/03. Of these, an average of 31% of the dwellings have been provided as a result of planning policies for affordable housing.

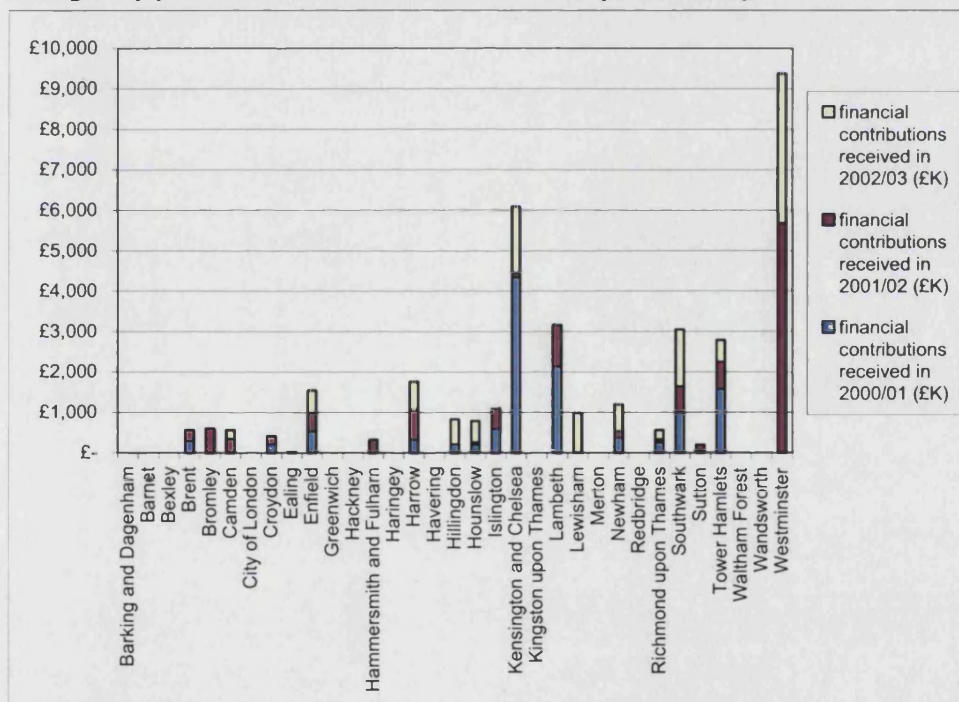
Figure 5.1: Supply of affordable housing in London, 2000/01 to 2002/03.

	Year		
	2000/01	2001/02	2002/03
Total Affordable Housing Completions	8,264	7,055	7,377
Affordable Housing Completions through Planning Policies	1,958	1,759	3,153
Percentage of Total Completions through Planning Policies	23.7%	24.9%	42.7%
PiL Financial Contributions Received by Boroughs	£12,091,000	£12,009,000	£11,780,000

Source: ODPM, HIP Data

In terms of financial provision for affordable housing development, Figure 5.1 shows that an average of around £12 million was received in the form of PiL contributions by boroughs each year in the period 2000/01 to 2002/03. Figure 5.2 shows the distribution of these financial contributions by borough. It shows PiL receipts each year and total levels received over the three-year period. The highest receipts are recorded by Westminster, which received PiL funds of £5,675,000 in 2001/02 and £3,698,000 in 2002/03. Interestingly, the City of Westminster did not record any receipts in 2000/01. Kensington and Chelsea record the second highest levels of PiL contributions. They received a total of £6,083,000 over the three-year period, although annual receipts have varied considerably, from £107,000 in 2001/02 to a high of £4,346,000 in 2000/01. Lambeth, Southwark and Tower Hamlets each record PiL contributions totalling over £2.5 million in the three-year period, with significant variations again being seen in the level of receipts each year.

Figure 5.2: Stacked bar chart to show total financial contributions received by boroughs by year between 2000/01 and 2002/03 (£ thousand)

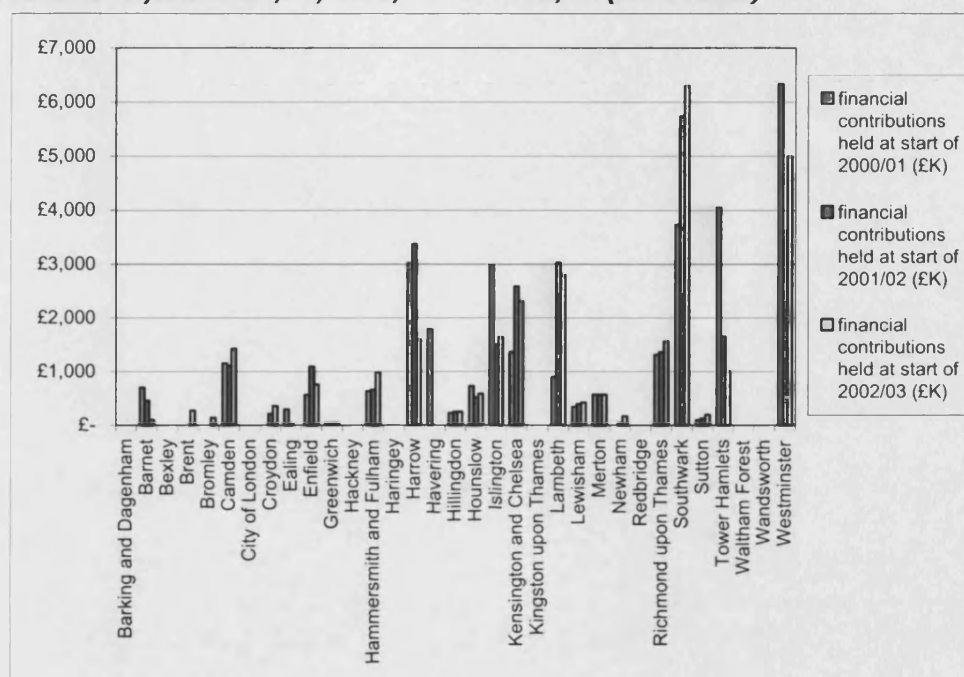


Source: author's questionnaire survey

Figure 5.2 shows that a considerable number of boroughs reported no PiL contributions in the years 2000/01 to 2002/03. These include Barking and Dagenham, Barnet, Bexley, City of London, Greenwich, Hackney, Haringey, Havering, Kingston upon Thames, Merton, Redbridge, Waltham Forest and Wandsworth. In addition to a number of outer boroughs, where it may be assumed that land is more readily available and therefore on-site provision is easier, it is likely that some of these boroughs have operated a specific policy of not accepting PiL. It is strange,

for example, to note that no PiL funds are recorded as being received in the City of London or Wandsworth, as both boroughs are generally considered to be high-demand locations where developers would seek to provide a financial contribution rather than on-site provision.

Figure 5.3: Clustered bar chart to show financial contributions held by boroughs at the start of years 2000/01, 2001/02 and 2002/03 (£ thousand)



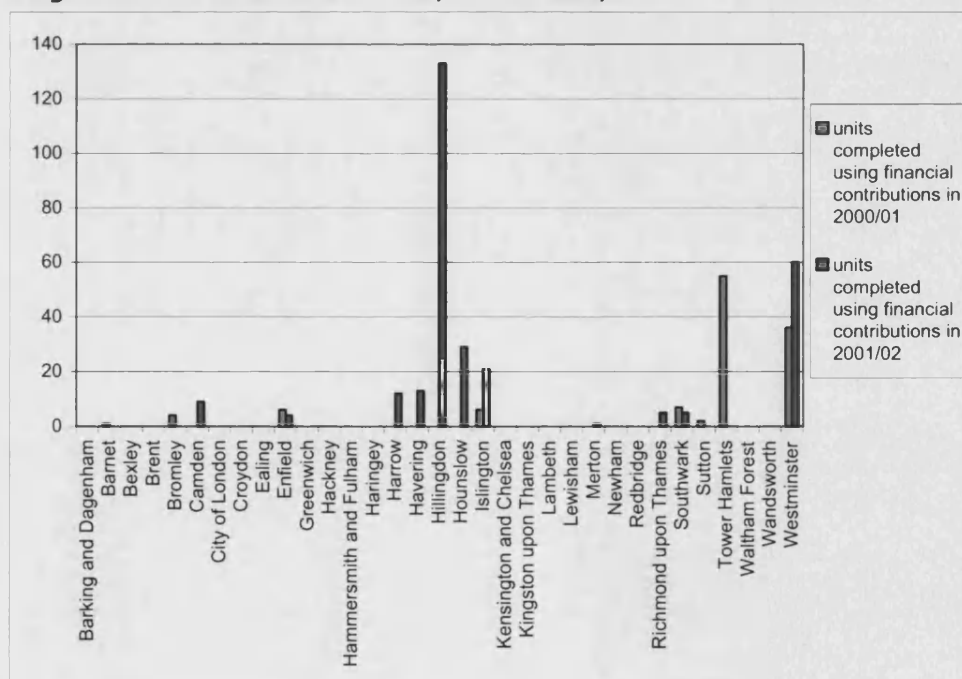
Source: author's questionnaire survey

Figure 5.3 shows financial contributions held by London boroughs at the start of each year within the period of analysis, i.e. total funds held within boroughs' accounts on a cumulative basis. When compared with Figure 5.2, it reveals several interesting points in respect of the receipt and expenditure of PiL. It shows that there are a number of boroughs where funds are accumulating but are not being spent. Southwark is the most prominent example, with Figure 5.3 showing that the amount of funds held by the Council has steadily increased each year to £6,295,000 in 2002/03. When compared with the level of funds received in the same three-year period in Southwark (Figure 5.2), this seems to indicate that very little of the financial contributions received are being spent. By contrast, Figure 5.3 shows a drop in Westminster's cumulative funds between the beginning of 2000/01 and the beginning of 2001/02, although this then increases to a higher level at the start of 2002/03. This would tend to indicate that a significant amount of the Council's PiL fund resources was spent during the year 2000/01, producing a reduction in the cumulative finances available. Similarly, Figure 5.3 shows a gradual reduction in total PiL funds in Tower Hamlets over the three-year period. Whilst the Council have received lower levels of financial contributions each year (Figure 5.2), the

cumulative total funds would have seen an overall increase if not for a level of spending occurring over the period that has exceeded the level of incoming funds. A comparison of Figures 5.2 and 5.3 indicates that Kensington and Chelsea has a much higher rate of 'through-put' of funds than many of the other boroughs. Whilst Figure 5.2 shows their receipt of funds to be considerably higher than average, Figure 5.3 shows that their 'account balance' is not particularly high when compared to other LAs. By contrast, boroughs such as Harrow, Islington and Lambeth record similar amounts of funds available to Kensington and Chelsea at the start of each year (Figure 5.3), and yet they have received considerably lower levels of receipts during the three-year period, particularly Harrow and Islington (Figure 5.2).

Figure 5.4 shows the number of affordable housing units completed using financial contributions from developers (PiL) in 2000/01 and 2001/02. Unfortunately, as a result of minor changes in the format of the Government's HIP questionnaire, comparative data is not available for 2002/03. However, the two-year period provides information that is of considerable interest in terms of the above discussion relating to the receipt and accumulation of funds, and it raises at least three particularly important issues.

Figure 5.4: Clustered bar chart to show the number of units completed by boroughs using financial contributions in 2000/01 and 2001/02



Source: author's questionnaire survey

First, and not insignificant, is the issue of data reliability. The HIP Returns provide information whose accuracy depends entirely upon the Officers of each LA understanding and answering

each question correctly. This clearly opens up the possibility for error, either by misinterpretation of the question being asked, or by the poor records being available within LAs, leading to incorrect figures being supplied. This problem was highlighted by Crook et al (2002). The data provided by the London Borough of Hillingdon in respect of affordable housing output via financial contributions is relevant in this regard, as shown in Figure 4.4. Hillingdon's HIP Return for 2001/02 stated a considerably higher level of output than any other London borough, at 133 units. Whilst one cannot prove with certainty that this level of provision did not occur, the data relating to funds received by the Borough (Figure 5.2) and funds held by the Borough (Figure 5.3) would indicate that this level of provision is unlikely to have been secured directly as a result of PiL. It is likely that the question was misinterpreted by one of the officers who completed the HIP form, with the figure provided referring to total affordable housing completions, or some other data, instead of just the number of units completed as a result of PiL contributions.

Secondly, and related to the first point, the data in Figure 5.4 is useful in confirming the general reliability of the HIP Returns, even if the occasional anomalous result is identified. Cross-referencing of the findings of Figures 5.2 and 5.3 indicates that both Westminster and Tower Hamlets had spent some of their PiL funds during the three-year period (as noted above). Figure 5.4 shows that Westminster City Council completed 36 affordable housing units using financial contributions in 2000/01, followed by 60 further units in 2001/02. In the London Borough of Tower Hamlets, 55 affordable dwellings were completed in 2000/01 using PiL funds. The data in Figure 5.4 therefore confirms some of the previous observations.

Figure 5.5: Supply of affordable housing units in London through the planning system and PiL mechanisms, 2000/01 and 2001/02

	2000/01	2001/02
Affordable Housing Completions through PiL Funds	117	159
Affordable Housing Completions through Planning Policies	1,958	1,759
Percentage of Planning Policy Completions through PiL Funds	5.9%	9.0%

Source: ODPM, HIP Data

The third important point arising from Figure 5.4 is the generally low level of affordable housing output as a result of PiL. Over half of the London boroughs (18 of the 33, i.e. 55%), produced no affordable housing as a result of financial contributions from developers in either of the years 2000/01 and 2001/02. The total supply of affordable housing units produced as a result of PiL contributions in London is shown in Figure 5.5 (excluding Hillingdon in 2001/02). This shows that financial contributions resulted in the completion of 117 affordable housing units in 2000/01 and 159 affordable housing units in 2001/02. It also indicates that completions

through PiL amount only a very small fraction of the total output of affordable housing through the planning system in London, at 5.9% in 2000/01 and 9.0% in 2001/02.

A comparison between the PiL finances received (Figure 5.2) and PiL funds accumulated (Figure 5.3) with the amount of affordable housing being produced as a result (Figures 5.4 and 5.5) indicates that there are a number of boroughs who are receiving and collecting developer contributions but for some reason are not spending the monies to increase the output of affordable housing, at least in the short term. Obviously the data in Figures 5.4 and 5.5 is limited to a two-year period, and the funds shown in Figures 5.2 and 5.3 may have been spent since 2002/03, or may still be available to be spent in the future (no records are available to analyse this). However, agreements between developers and LAs relating to the payment of monies towards the provision of affordable housing are (or should be, under national policy) subject to conditions requiring the finances to be spent within a certain timeframe or else the funds must be returned to the developer. In this respect, the data trends indicate a high probability that at least some finances meant for the delivery of affordable housing are being 'lost' from the system.

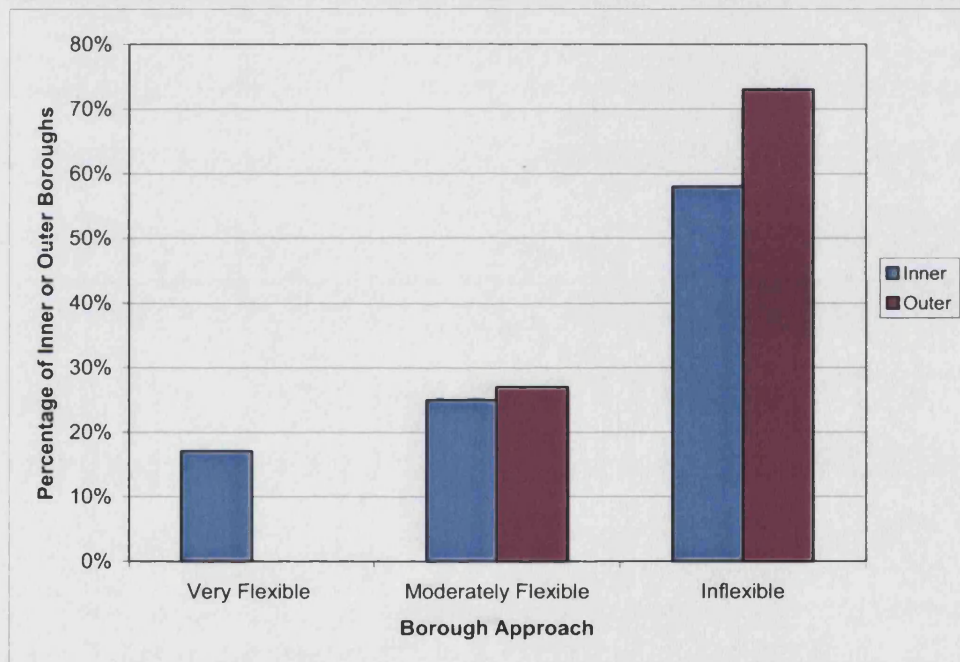
5.2 PiL policy approaches

Section 4.5 analysed borough UDP policies in relation specifically to financial contributions towards the provision of affordable housing. The questionnaire survey found that around two-thirds (67%) of responding boroughs have policies within their local development plan relating to PiL and of these one-half have a formula for calculating the required contribution to be paid (Appendix 3D and Figure 4.5).

In addition to having policies in place, a borough's approach to the application of their policy in practice is of immense significance in terms of meeting the UDP's stated objectives. Some boroughs opt to have no policy relating to PiL because they have no intention of allowing developers to provide finances, but will instead always seek the on-site provision of affordable housing units. On the other hand, boroughs who have policies relating to PiL may adopt a variety of different approaches in respect of their acceptance of PiL. They may agree to financial contributions in a limited number of specified 'exceptional' circumstances, or they may be quite flexible as to when they will accept PiL. The questionnaire survey included a question relating to boroughs' stated approach to the acceptance of financial contributions instead of on-site affordable housing provision. Only 7% of respondents state a 'very flexible' approach to PiL, with just over a quarter (26%) stating that they adopt a 'moderately flexible' stance. The remaining two-thirds of boroughs (67%) respond that they have an 'inflexible' approach to accepting monetary contributions (Appendix 3.E).

Figure 5.6 compares the approach of inner and outer boroughs in respect of their acceptance of PiL. It provides an interesting spatial contrast, with inner boroughs generally adopting a slightly more flexible approach than outer boroughs. Whilst 17% of inner boroughs state a 'very flexible' approach, there are no outer boroughs who consider themselves take this position. Just over half of inner boroughs (58%) rate their approach as 'inflexible', compared with almost three-quarters (73%) of outer boroughs. The reason for the generally more flexible approach of inner boroughs is likely to relate to the exceptional circumstances that are considered to exist in high-density Central London developments, which probably include issues such as the additional costs of development, problems of mixed tenure in apartment blocks, and servicing requirements.

Figure 5.6: Clustered bar chart to show approach to PiL of outer and inner boroughs

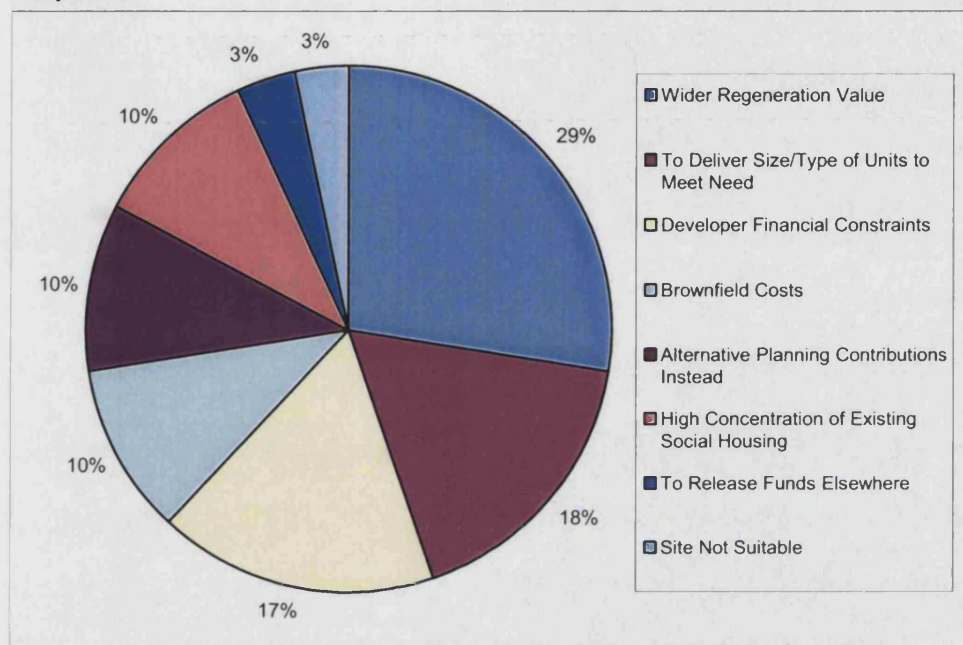


Source: author's questionnaire survey

Figure 5.7 shows the stated exceptional circumstances under which boroughs will typically agree to a financial contribution from an applicant, rather than require the on-site provision of affordable housing. The most popular reason for allowing financial payment is that the development has 'wider regeneration value', with 29% of boroughs stating this as a justifiable circumstance. The second most common reason, stated by 18% of boroughs, is to 'deliver a specific size or type of unit' to meet identified needs. This second circumstance implies that LAs are prepared to accept finances instead of on-site affordable housing where the units being provided on the site would not match the local housing needs of these requiring affordable

housing. The borough will therefore take a PiL in order to facilitate the provision of more suitable affordable housing elsewhere in their area.

Figure 5.7: Pie chart to show the exceptional circumstances in which boroughs will accept PiL



Source: author's questionnaire survey

What it is interesting to note about Figure 5.7 is that 'developers' financial constraints' and the 'costs of brownfield redevelopment' rank as the third and fourth most popular justifying reasons for allowing PiL, stated by 17% and 10% of boroughs, respectively. Boroughs appear to prioritise wider community benefits above considerations in respect of market economics and development profitability. The lack of national and strategic guidance on what issues may reasonably be considered to constitute exceptional circumstances is discussed in Section 4.5. The only examples of potentially exceptional cases are provided within the London Plan, which suggests that these may include sites where there are existing concentrations of particular types of social housing, or to provide a particular type of housing, such as family housing (2004, para. 3.47). In the light of these examples, borough practices appear to be 'in general conformity' with strategic guidance on this issue.

The above analysis raises a potential paradox, however, regarding the balance between community-led objectives and the aim of promoting economic growth. London Plan Policy 3A.8, dealing with negotiations with private developers for affordable housing contributions, specifically states that boroughs should have regard to *"the need to encourage rather than restrain residential development."* In this sense it is interesting to note that the circumstances

suggested by the London Plan for exceptionally allowing PiL do not include cases such as developers' financial constraints and the costs of brownfield development. In both strategic policy and local practice, it would appear that site- and scheme-specific constraints are not considered to have as much weight as wider community objectives in justifying a developer's request to provide a PiL rather than an on-site affordable housing contribution. The way in which PiL policies have been outworked in practice is analysed further in some scheme-specific case studies in Section 5.4.

5.3 Use of PiL funds

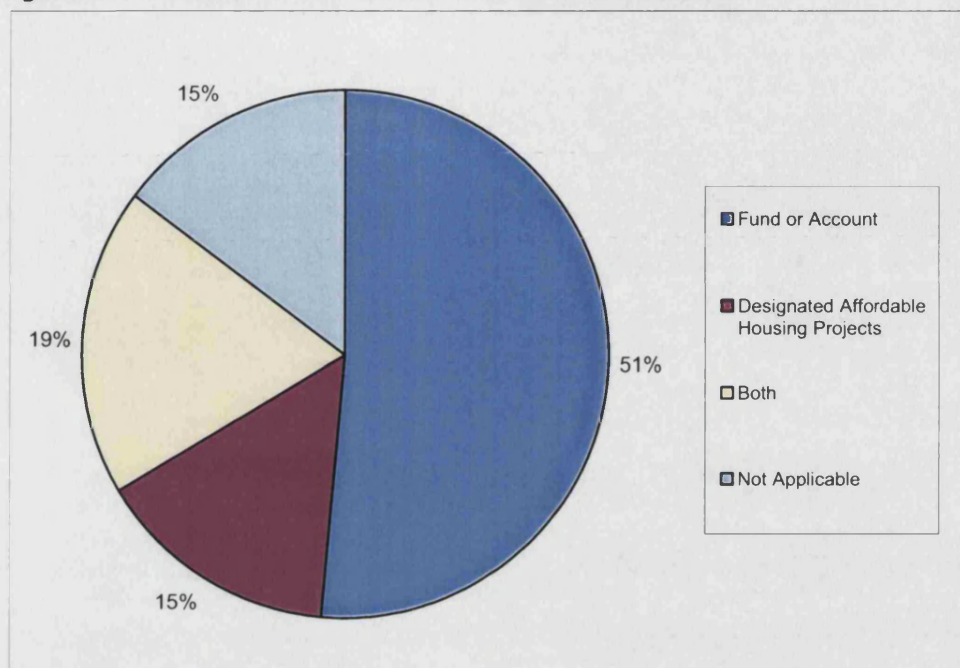
In terms of the ways in which boroughs use the funds that they receive as PiL contributions, national planning policy does not provide very much guidance. The focus is instead upon the provision of affordable units within residential developments. The most direct guidance in respect of financial contributions is contained within paragraphs 21 to 24 of Circular 06/98. This states that, where a LPA and a developer both consider that it is preferable that an alternative form of contribution should be made instead of on-site provision,

"they should ensure that such arrangements would actually result in the provision of affordable housing (whether via new build or conversions), that would otherwise be provided, in the local planning authority's area."(para. 22, Circular 06/98)

The fundamental requirement of national guidance in relation to the use of financial contributions is therefore that they are utilised in such a way as to result in a net increase in affordable housing provision within the local authority area. As noted in Section 4.5, there are two alternative mechanisms that can be adopted in cases where on-site provision is considered to be inappropriate – either 'off-site' provision, where affordable units are provided on another site to the proposed development, or 'PiL', where a financial contribution is provided for the purpose of facilitating affordable housing delivery elsewhere in the borough at a later date.

The questionnaire survey included various questions relating to the way in which financial contributions to affordable housing received as PiL are used once they have been received by boroughs. Figure 5.8 shows that over half of boroughs accept PiL solely as financial contributions to a 'fund or account'. In addition, a further 19% of boroughs state that they accept PiL as finances to a fund or account, whilst also using finances for designated affordable housing schemes (i.e 'both'). This represents a total of 70% of boroughs that accept payments to a fund or account. Figure 5.8 shows that 15% of boroughs receive PiL exclusively for 'designated affordable housing projects'. Taking into account those boroughs receiving 'both' forms of PiL contribution, however, the total proportion of boroughs that designate money to specific affordable housing schemes is one-third.

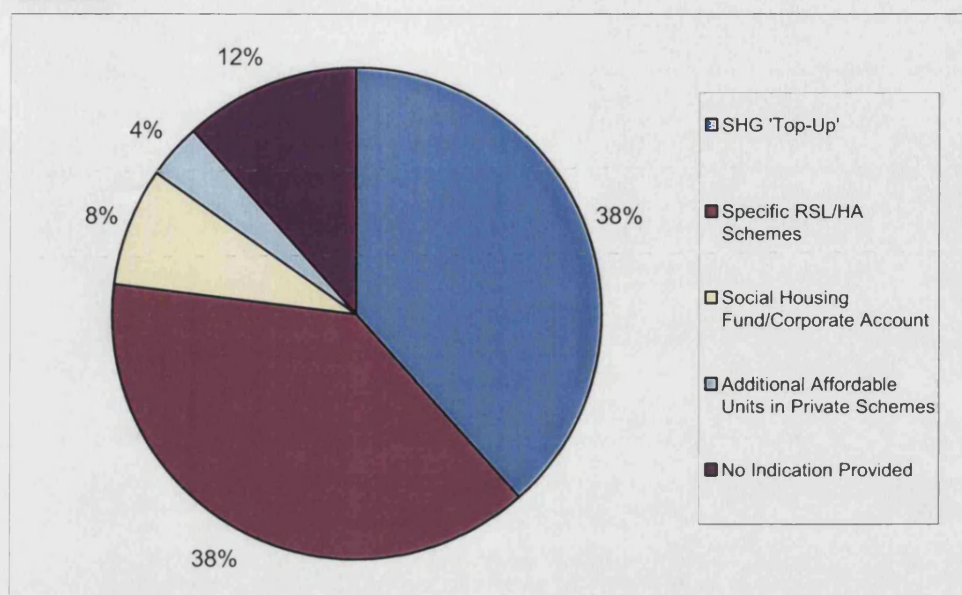
Figure 5.8: Pie chart to show the use of funds obtained via PiL



Source: author's questionnaire survey

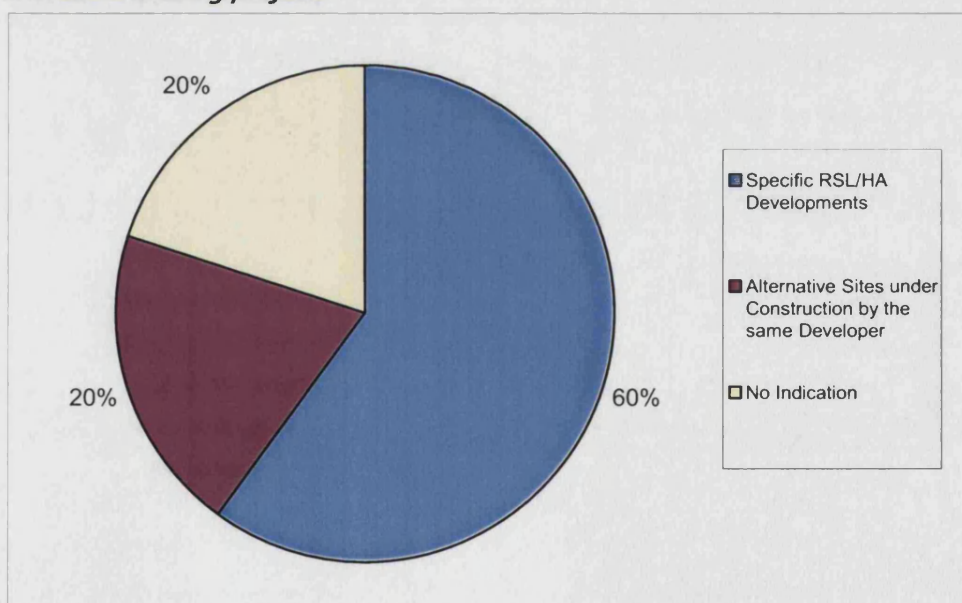
Figure 5.9 shows the way that those boroughs that stated that they receive contributions for a fund or account use the finances accumulated (this includes those boroughs who indicated 'fund or account' or 'both' in the question relating to Figure 5.8). Whilst three of the 19 boroughs that stated that they receive fund or account contributions provided no indication of the use of these finances, seven of the remaining 16 boroughs (i.e. 44%) indicated two ways in which their contributions were used. 38% of boroughs receiving contributions to a fund or account use these monies as a SHG 'top-up', with the same proportion also using the finances for specific RSL residential development schemes. Two boroughs stated that the finances go to a "ring-fenced social housing fund to provide affordable housing in the borough" and a "corporate account" (categorised in Figure 5.9 as 'social housing fund/corporate account', although it is assumed likely that in practice these fund or account monies are used as SHG or for financing RSL schemes (i.e. synonymous the first two categories in Figure 5.9). One borough stated that their fund and account finances are used "to provide additional affordable units in private schemes".

Figure 5.9: Pie chart to show the way boroughs use contributions to funds or accounts



Source: author's questionnaire survey

Figure 5.10: Pie chart to show the way boroughs use contributions to designated affordable housing projects



Source: author's questionnaire survey

Figure 5.10 shows the ways in which those boroughs that receive contributions for designated affordable housing projects use the funds (including those who indicated 'designated affordable housing projects' and 'both' in the question relating to Figure 5.8). This shows that 60% of

boroughs that receive designated finances have the monies allocated to specific RSL development schemes. One-fifth of respondents state that PiL are designated to affordable housing provision on alternative sites under construction by the same developer.

Overall, the questionnaire survey has identified that the majority of London boroughs operate an inflexible approach towards PiL acceptance. In line with the policy analysis findings at Section 4.5, contributions towards affordable housing through financial payments are largely discouraged in practice. Significant accumulation of PiL funds appears to occur in many boroughs, suggesting that opportunities to spend finances are relatively limited. This may well be a result of land supply constraints, although other factors may also be involved in terms of the organization and accountability of resource allocation within boroughs. As a whole, HIP Return data indicates that the output of affordable housing completions as a result of PiL represents only a very small fraction of total provision through the planning system, at less than 10% in both 2000/01 and 2001/02. The majority of PiL contributions go into a LA account for later allocation, usually as either SHG top-up or in specific RSL developments.

5.4 Case studies of financial contributions provided 'in lieu' of on-site affordable housing

There has been considerable criticism of the planning obligations system over the long-term, in respect of the potential for effectively 'buying' planning permission for development. Successive governments have therefore sought to promote a more open system. This was an important aspect of the Planning Green Paper (December 2001) proposals for the reform of the planning system, and especially regarding new arrangements for planning obligations. However, even prior to the current reforms leading to the Planning and Compulsory Purchase Act 2004, national planning policy has placed considerable responsibilities on LPAs in this regard, and particularly in relation to affordable housing. PPG3 requires that,

"Decisions involving affordable housing contributions should be transparent and accountable: all parties should know the full basis for planning decisions, including planning obligations agreed in order to make housing proposals acceptable." (para. 20)

It is specifically stated that, in addition to the requirements of Article 25 of the Town and Country Planning (General Development Procedure) Order 1995, LPAs should ensure that *"full information about planning obligations involving affordable housing contributions is placed on the statutory planning register"* (PPG3, para. 20). There is therefore an explicit requirement on LPAs to make data relating to affordable housing contributions available to the public. In addition, PPG3 states that LPAs should monitor both the operation and outputs of local plan affordable housing policies, including both the provision of affordable housing units and

contributions received towards such development (para. 19). Despite these national policy requirements, both to maintain up-to-date records and to make them available for public inspection, it remains very difficult to obtain information from some LPAs (whilst others are very helpful).

As detailed in Section 2.5, semi-structured telephone interviews with borough officers have been undertaken to provide case studies of developments where a PiL was accepted by the LPA.

**CASE STUDY A.
Enfield (Outer, North)**

TOWER POINT, ENFIELD TOWN

LPA Ref. TP/99/0615: erection of 147 self-contained flats, balconies, health club, retail unit and provision of associated parking facilities.

Application submitted on 17 May 1999;
Application approved on 8 March 2000.

LPA Ref. TP/99/1686: amendments to scheme permitted under 99/0615

Application submitted on 10 January 2000;
Application approved on 3 March 2000.

Comer Homes

S.106 agreement was signed on 29 February 2000, including highways and environmental works and a payment towards affordable housing provision.

It was considered that a PiL would be acceptable because of the site involving the conversion of an office building, with additional costs, wider benefits of the conversion and concerns regarding the servicing arrangements.

The S.106 agreement required a payment of £50,000 for the off-site provision of social housing. It also included a clause relating to general environmental improvements (£53,000) and a payment of £172,000 in instalments (not clear what this contribution was for).

The PiL was derived through negotiation between the developer and the LPA, as the application pre-dates the Council's formula.

Case Study A is located in an outer London borough in the North sub-region. The application and subsequent amendments sought planning permission for a mixed-use development, including 147 flats, a health club and a retail unit. Originally submitted in 1999, the provisions of Circular 06/98 would have applied to the application as a material consideration, whatever UDP policies existed at the time in respect of affordable housing. As a development scheme over the 25-unit threshold for an outer London borough, the London Borough of Enfield could reasonably have requested that the applicant, Comer Homes, provided an on-site element of affordable housing. Where a site is considered 'suitable' by a LPA, then on-site provision

becomes a material consideration in determining an application for planning permission, in line with paragraph 24 of Circular 06/98:

"Where a local planning authority considers, having regard to the policy in this Circular, that certain sites are suitable for inclusion of an element of affordable housing and an applicant does not make such provisions as part of the proposed development, such a failure could justify the refusal of planning permission."

However, on the basis of both the costs of conversion and the wider benefits of the proposed development, a PiL of £50,000 was accepted by Enfield Council. The figure was negotiated, as the Council did not at the time have a formula for calculating financial contributions.

Whilst opinions may vary as to the appropriateness of the London Borough of Enfield accepting a financial contribution towards the provision of affordable housing and also the amount of money agreed (which seems low), it provides a relatively 'straight-forward' case example of a PiL application. The large number of residential units being proposed clearly brought the scheme within national policy parameters and the site was considered 'suitable' for some form of contribution towards affordable housing. Although on-site provision has always been the preferred mechanism of provision, the developer in this case pleaded exceptional costs associated with the brownfield redevelopment proposed, and the Council were prepared to accept a PiL, rather than provision as part of the scheme, in the light of the wider regeneration benefits of the development.

Case Study B provides an interesting contrast to Example A. Located within an inner borough in the East London sub-region, the application also involves a mixed-use development, although on a larger scale. Alongside offices, live-work units, various retail/financial/food and drink units, and a fitness centre, the scheme includes a total of 357 residential dwellings. The application was submitted and considered at a similar time to that of Case Study A, although by the time planning permission was granted for this scheme, Revised PPG3 (2000) had been in place for almost a year. The planning obligation agreed in association with the grant of planning permission for Case Study B involves the on-site provision of 47 units of affordable housing, which represents just over 13% of the total dwellings in the scheme. The bilateral agreement specifies that this housing will be shared-ownership tenure properties. In addition, a contribution towards the off-site provision of affordable housing is committed in the obligation, at £1.67 million. This combination of on- and off-site affordable housing provision was considered appropriate by the London Borough of Lewisham at the time of determination, on the grounds of the site's location within a wider area with a high existing concentration of social rented housing. The Council sought the on-site provision of 'intermediate' affordable housing (shared-ownership), as opposed to social rented dwellings, in order to improve the tenure mix of the area. Likewise, Council Members were agreeable to accepting a PiL on the basis that this

would be used to increase the supply of affordable housing elsewhere in the Borough and facilitate more balanced communities. Improving the spatial distribution of different tenures in the Borough in order to create mixed and balanced communities appears to have been the overriding policy objective in determining the way in which an element of affordable housing should be contributed through Case Study B. In this respect, the Council's decisions appear to have been fully compliant with the aims of PPG3 and Circular 06/98.

**CASE STUDY B.
Lewisham (Inner, East)**

DEAL'S GATEWAY, DEPTFORD

A Planning and Design Brief for the site was adopted as SPG on 11 May 2000.

LPA. Ref. DC/00/46436 and 46436C

St James Homes

Following completion of a S.106 agreement, planning permission was granted on 23 February 2001 for the redevelopment of the site with a mixed use scheme comprising residential development (170 one-bedroom and 287 two-bedroom units), B1 offices (3,798 sq m), 40 live-work units, A1, A2 and A3 units, an ancillary gym/fitness centre, together with associated car parking and landscaping.

The S.106 agreement included the provision of 47 units of on-site affordable shared ownership housing; a financial contribution to off site provision of affordable housing of £1.67m; a contribution to environmental improvements; public art; phasing of the B1 element; local labour/training; and a green travel plan.

Whilst some affordable housing is being provided on the site, in the form of shared ownership, it was agreed that a contribution to affordable housing elsewhere in the Borough would be appropriate. This relates to the site's location within an area with a high existing concentration of social rented housing.

The PiL, in common with all such payments, went into a specific affordable housing fund. The finances are used quite flexibly in the borough, to increase the provision of affordable housing. However, they are not usually used as top-up SHG.

Various applications have subsequently been granted planning permission in connection with the redevelopment. These have involved revisions to the proposed mix of units, with additional housing units.

Case Study C is located within an outer London borough, in the South sub-region. The development includes only seven dwellings, comprising four- and five-bedroom houses. However, the site area is above the 0.5-hectare UDP policy threshold (as an outer London borough, national guidance advises a 1-hectare threshold, but reduced parameters were adopted through the development plan process in the light of exceptional local constraints). Planning Officers considered that the site was 'suitable' to provide some form of contribution towards affordable housing. However, the Council accepted the suburban location of the site and private sector market considerations as exceptional circumstances. As a result, a financial contribution of £204,895 was agreed in lieu of on-site provision. This sum was calculated using

a formula approach and was paid into a specific Housing Fund within the Council. Planning Officers advise that the finances from the Housing Fund are used predominantly as top-up LASHG for the development of new affordable housing, although some of the money from Case Study C has also been used to fund research for the Council's local housing need study.

**CASE STUDY C.
Croydon (Outer, South)**

83/85 HIGHER DRIVE, PURLEY

LPA Ref. 00.2103.P

Erection of 3 four-bedroom and 3 five-bedroom houses. Site area = 5,245 sq m.

Application received on 1 August 2000;
Application considered at Committee on 22 November 2000;
S106 signed on 20 December 2000;
Planning permission granted on 21 December 2000.

PiL of £204,895.

Calculated using a formula, although this has since been updated to a residual approach. The previous formula was based on a comparison of market value of TCI. The formula was applied on the basis of habitable rooms.

Private sector market considerations make a mix of house types difficult to achieve on a site, which is just over the size of site threshold. It was not considered that affordable housing provision would be appropriate on the site, which is located south of Croydon in a suburban area.

The PiL finances, in common with all PiL, went into a specific fund in the Council Housing Department. The finances are predominantly used as top-up LASHG for new development, although a small amount of the money in this case also funded housing need study research.

Case Study D provides an interesting example of a scheme where a PiL was accepted as part of a more complex policy framework than in Case Studies A to C. Located within an inner borough in the Central sub-region, the proposed development comprises a mixed-use scheme including both office space and residential units. The housing element of the development includes thirteen units, and therefore falls below the thresholds of both national and UDP policies for the provision of affordable housing. Despite this, a PiL of £1 million was agreed between the applicant, Stanhope Plc, and Westminster City Council for the off-site provision of affordable. This sum was negotiated, rather than being calculated in accordance with the UDP 'commuted sum' formula, which Planning Officers advise would have required a substantially larger payment. Having commissioned consultants to assess the economics of the scheme, the Council accepted the applicant's offer of £1 million, on the basis of the exceptional costs of converting the Grade II Listed Building.

**CASE STUDY D.
Westminster (Inner, Central)**

CAXTON HALL, CAXTON STREET

LPA Refs. 02/09835/FULL and 02/09836/LBC

Retention and restoration of the front part of the building to provide 13 self-contained flats and demolition and redevelopment of the rear part to provide a new office building of basement, ground and nine upper floors.

Stanhope Plc

Applications received on 20 Dec 2002;

Sub-committee meeting on 30 Oct 2003;

Planning permission and LB consent granted on 13 April 2004, subsequent to the signing of S.106 agreement.

S.106 contributions included affordable housing, highways works, underground station improvements (St James Park), public art and tree planting.

No affordable housing was provided within the scheme. The Council accepted a PiL on the grounds of the costs of conversion and economic viability. A payment of £1m was agreed by negotiation (the formula would have required a substantially larger payment), with consultants commissioned by the Council assessing various information relating to the economics of the scheme.

PiL are placed within a designated affordable housing fund in the Housing Department.

The key question that arises in considering Case Study D is why any affordable housing contribution was required of the applicant in any event, whether on-site or off-site, as the residential element of the scheme fell below the policy threshold. In terms of the criteria within paragraph 10 of Circular 06/98, the site fell below the national and UDP threshold and is therefore under a strict interpretation of policy is inherently not 'suitable' to make a contribution towards affordable housing. The GLA Planning Report (8th October 2003, Appendix 5) provides some interesting information on the application in this respect. As a development proposal involving the erection of a building over 30 metres high, the application was referred to the Mayor under the Town and Country Planning (Mayor of London) Order 2000. Whilst the Mayor waived the right to direct refusal, the GLA Planning Report provides a useful additional analysis of the scheme in the context of national and strategic planning policies. The Report confirms that the application does not trigger an affordable housing contribution as a result of the quantum of residential development within the proposed scheme (paras. 20 and 21). However, as a development in the 'Central Activities Zone' (CAZ) involving an increase in office floorspace, the Report identifies policies in both the London Plan (at that time in draft form, but in the Post-EIP period) and Westminster UDP that require an equivalent increase in residential floorspace. The Report states that,

"Westminster City Council has assessed the mix of uses in the proposal and has concluded that there is a shortfall of 6,139 sq m of residential floorspace. In the

circumstances, Westminster Council Officers have recommended that a financial contribution be made towards affordable housing elsewhere in the City of Westminster. The Council operates an affordable housing fund where developer finance is pooled in order to provide affordable housing in the borough. Members at Westminster are understood to be considering an offer from the developer.”(para. 25)

The GLA Report clearly indicates that the provision of a contribution towards affordable housing in Case Study D was only indirectly related to the UDP affordable housing policy. The net increase in office floorspace proposed within the development triggered a mixed-use policy, similar to that discussed in Section 3.4(ii). This mixed-use policy required a higher level of residential development to be included within the scheme than was proposed in the application. Rather than increasing the on-site general housing floorspace, Westminster City Council accepted a contribution towards the off-site provision of affordable housing. While there has been some debate at national level regarding the possibility of seeking contributions towards affordable housing from commercial development, Case Study D provides an example of where such practice is already in operation through the ‘back-door’ via the application of mixed-use policy.

The case studies indicate significant variation, both in terms of boroughs’ approaches to the ‘exceptional’ circumstances that justify acceptance of a PiL, and in respect of the size of contributions agreed. At least in relation to central London boroughs, the findings of Chapter 5 suggest that there is potential for substantial financial income from PiL, if it was decided that this policy mechanism should be made more widely acceptable as an alternative to on-site provision. Such a choice was intimated in the Government’s consultation on a proposed ‘optional planning charge’ (OPC)(November 2003). However, it remains uncertain at the present time how much flexibility developers would be given under this approach to choose between the physical provision of units and the payment of a cash sum. These issues of future policy are explored further in the following chapter.

Chapter 6

Planning at a Crossroads: Policy Options for Affordable Housing

This chapter builds on the findings of the previous chapters and evaluates the different policy options that exist for the future provision of affordable housing through the planning system. It assesses ways in which the current planning policy approach could be modified so as to create a system that maximises the output of affordable housing in London. Section 6.1 looks at the need that exists at the present time for a change in policy. Some of the problems with the current system are identified, along with parameters for change. Section 6.2 sets forward the first option for change, which involves a continuation of past trends in policy evolution. Section 6.3 analyses the second option, a more radical policy approach that would increase the use of PiL contributions and require more flexible administrative arrangements. Section 6.4 considers the third option for policy, which involves a more comprehensive change to the whole system of planning obligations. This comprises an evaluation of recent proposals for a new system to replace S.106, with particular emphasis on the likely implications for affordable housing provision. Finally, Section 6.5 provides a brief discussion of the findings of the chapter.

6.1 The need for policy change

Although it has largely become established and accepted in the housebuilding industry, the current system of seeking planning contributions for affordable housing remains complex, involving a range of policies at the national, strategic and local level. As we saw in Chapter 4, considerable variations in policy approach exist between LAs, even over a relatively small area such as London. Empirical research has confirmed that the value of contributions varies significantly over space; not only between LA areas, but also between sites in the same housing market locality (Barker, 2003). This contributes to the unpredictability of the system for users and fuels criticism that planning obligations represents an unfair mechanism of taxing developers. The agreements that are made between developers and LAs are usually a result of 'behind-closed-doors' discussions and are not always placed on public registers. The lack of transparency in this aspect of planning practice erodes general confidence in the system as a whole. In addition to these general criticisms of the current planning obligations system, S.106 agreements also cause specific problems for prospective developers. They often involve complicated negotiations, which can easily become protracted and occupy considerable

timescales. The delay this causes in the processing of planning applications can affect the delivery of development and in some cases seriously impact on scheme viability.

Significant levels of resources are consumed in seeking to maximise affordable housing contributions through the planning system. By their very nature, the preparation and implementation of policies relating to affordable housing are both timely and costly exercises. But it is not only the public sector that is affected in this respect. Landowners, developers, expert consultants, lawyers, and numerous other bodies also expend significant resources in discussions and negotiations that relate primarily to the issue of affordable housing provision. On the basis of recent research into this issue, the University of Westminster and London Residential Research (UW/LRR) comment that,

"There is no doubt that property development generally in the capital has become more complex with the vast majority of sites being more complicated to develop. The planning and administrative structure in the London Boroughs and at the strategic level within which decisions are made about development has also become more complicated with policies developing and pressures on infrastructure increasing." (2002, para. 4.1)

To a certain extent, the growing complexity of development necessarily implies greater intricacies in resolving the planning issues involved, with an inevitable increase in costs. However, it is arguably the case that some of these costs could be reduced, and that more simple and transparent planning mechanisms could reduce the 'loss' of resources from the system. As stated by Crook et al (2004a, forthcoming), there is a need to maximise the value of private sector contributions in order to enable related increases in affordable housing provision.

Increased clarity, certainty and efficiency in policy approach are required. In terms of determining the most appropriate mechanisms for delivering affordable housing through the planning system in London, particular emphasis must be placed on overcoming the existing constraints on provision. Chapter 3 identifies critical problems in respect of land and funding supply, especially in the case of London. The planning system has now assumed an important role in facilitating the provision of both sites and finances for the development of affordable housing. As discussed in chapter 5, there is evidence that indicates that financial contributions through PiL are not being fully utilised, probably as a result of land constraints. However, while the supply of land for affordable housing development has been a particular focus in recent literature, the need for funding resources is also significant. Various commentators have highlighted the need for additional funding contributions through the planning system. Barker states that,

"... if the amount of land secured for Section 106 housing does increase, it is essential that larger financial contributions from developers are secured for affordable housing. Otherwise there is the danger that the increase in Section 106 units will absorb an ever increasing proportion of the Housing Corporation's ADP, leaving less funding for other forms of social housing." (2003, para. 10.24)

There is a growing awareness of the need for additional funding resources to be made available, as well as land for affordable housing development. Lack of such finances is increasingly forming an obstacle to the provision of affordable accommodation, even where site opportunities arise. In looking to improve efficiency in the future, it is essential that the balance between land and funding provision is carefully considered.

6.2 Policy Option One: following past trends - more of the same?

A continuation of past trends in policy evolution could include several different changes to the current system of provision, yet without any radical transformation to the underlying approach. In effect, the current negotiation approach could be 'tweaked' in various ways in order to seek to maximise private sector contributions to affordable housing.

(i) Changing the parameters for on-site provision

The existing PPG3 presumption in favour of on-site provision is significant in contributing to the supply of deliverable affordable housing sites, as it prioritises the physical delivery of affordable housing, irrespective of what arrangement is involved in the subsidy of the units. In acknowledgement of this, the Government's Proposed Changes to PPG3 (July 2003) reiterate the presumption and state that it should only be set aside in a limited number of circumstances that should be set out in the development plan. Under the policy approach of requiring the 'in-situ' provision of affordable housing provision as part of general residential schemes, there are in principle two ways in which contributions could be maximised in the future:

- (i) increasing the proportion of affordable units within the scheme; i.e raising the indicative target (quota); or
- (ii) increasing the number of sites that are 'suitable' (in Circular 06/98 terms) for application of the policy; i.e. reducing the threshold level to include smaller sites and schemes comprising fewer units.

The operation of either mechanism would have implications on the delivery of market housing and the economic viability of development. The issue of raising policy targets (quotas) has been much-debated in the context of the London Plan, as is discussed in Section 3.4(ii). The final London Plan does not include a policy stating indicative targets to guide negotiations

between LPAs and developers, following a range of criticisms in relation to the Draft London Plan's proposals for targets of 35% and 50% for different boroughs. However, the Mayor has adopted a strategic target that 50% of all additional housing should be affordable (Policy 3A.7), and recent experience indicates that in practice this figure is often forming a starting-point for negotiations, particularly in the case of strategic applications where the GLA are directly involved in application discussions. Wherever possible, there is also an encouragement for developers to cooperate in site viability appraisals using the 3D/NTU 'development control toolkit' (referred to in Sections 3.4(ii) and 4.4).

Reducing threshold levels would increase the land supply for affordable housing, all other factors remaining equal, by bringing smaller developments under the policy requirements. In its report on *Affordable Housing* (2003), the ODPM: Housing, Planning, Local Government and the Region's Select Committee state that the current thresholds (under Circular 06/98) were introduced because of developments on small sites being considered less profitable. However, it suggests that the economics of development may not vary significantly between schemes of above and below the current threshold level, and considers that this threshold is severely limiting the provision of affordable housing, particularly in areas where predominantly small sites are available (2003, para. 47). 3D/NTU et al (2003) have analysed thresholds for the application of affordable housing policies in the London context. They looked at planning permissions data for 2001 and found that small sites represent a significant component of both the potential residential capacity and the stock of sites granted planning permission, accounting for around a third of supply. The study revealed that most permissions for housing development are for schemes of below five dwellings, with schemes of one to four units accounting for 72% of all residential permissions. However, while they found that there are fewer planning permissions granted as scheme sizes increase, schemes of one to four units account for only 14% of all dwellings granted permission, while schemes of 50 dwellings or more account for over half (53%) of all dwellings permitted. This indicates that small schemes only represent a small proportion of total housing supply and are therefore likely to yield a correspondingly small additions to affordable housing provision through the planning system.

Despite proposals in the Planning Obligations Green Paper (December 2001) to abolish thresholds, potentially making any scheme liable to the suggested tariff, irrespective of size, the Government's Proposed Changes to PPG3 (July 2003) do not include such a radical overhaul of current affordable housing policy. *Housing – Influencing the size, type and affordability of housing* proposes that current national thresholds (under Circular 06/98) should be reduced so that affordable housing should not "normally" be sought on sites of less than 0.5 hectares (compared with the existing 1 hectare) or developments of less than 15 dwellings (compared with the existing 25 dwellings)(2003, para. 10). In addition, it states that LPAs will be able to

seek affordable housing provision on sites smaller than 0.5 hectares or developments of less than 15 dwellings, although this would have to be justified in the local plan under various criteria (2003, paras. 10 and 11). As detailed in Section 4.3, this thesis has found that many outer London boroughs have already adopted thresholds of below the current 25-unit (1-hectare) policy level, with some as low as 10 units.

In many ways, the Proposed Changes to PPG3 represent a similar overall approach to affordable housing provision as current policy, but simply bring national guidance up-to-date with common practice and case law development. It is therefore unlikely that the introduction of the changes would make a significant difference to outputs in practice. In addition, the implications of more stringent requirements on the economic viability mean that such changes have the potential to be counter-productive in terms of both general and affordable housing outputs by acting as a disincentive to development.

(ii) Extending the policy to commercial uses

In addition to changing the targets and thresholds for policy application on residential sites, another mechanism that has been proposed for increasing the supply of land for affordable housing provision is the imposition of a similar policy on commercial developments. This approach is considered in Section 3.4(ii). By bringing a wider range of uses within the remit of affordable housing policy, an increasing proportion of total development schemes would be required to provide a contribution. Alongside a policy approach prioritising on-site provision, this would serve to increase the supply of land for affordable housing delivery. The inclusion of commercial developments within affordable housing policy was suggested by Government in the Planning Obligations Green Paper (December 2001), and has remained a potential policy option since that time. In their Response to the Select Committee Report on *Affordable Housing* (March 2003), the Government state a commitment to consider the contribution that commercial developments could make to affordable housing. In addition, policy support is provided for a 'mixed-use' approach, although no clarification is given on how such policies should operate:

"It is already Government policy to encourage mixed-use developments, because this can be more sustainable than development consisting of a single use. We give encouragement to local authorities (B11 in DoE Circular 01/97) to use planning obligations to ensure an acceptable balance of uses in a mixed-use development and to secure the inclusion of affordable housing in larger mixed-use development. We also expect the forward planning process to consider the implications of plans for new commercial development on housing requirements." (2003, p. 6)

The policy referred to in the above quote, at paragraph B11 of Circular 01/97, provides examples of different arrangements that planning obligations may reasonably include.

Reference to affordable housing provision is indeed provided at point (ii) of paragraph B11, which states that planning obligations may secure the inclusion of an element of affordable housing or special needs housing in larger residential or mixed-use development. It directs readers to separate advice in DoE Circular 13/96, *Planning and Affordable Housing* (since superseded by Circular 06/98). The clear intention of both Circular 01/97 and Circular 06/98 is that affordable housing provision is a material consideration in residential development, including 'larger mixed-use development' where this involves a significant amount of residential use. Current Government guidance on both planning obligations (Circular 01/97) and affordable housing (PPG3 and Circular 06/98) in no ways promote the use of S.106 agreements to secure contributions towards affordable housing from commercial proposals. The Government have indeed issued general statements encouraging a mix of uses within developments, but in no national planning guidance is there a clear policy encouraging the kind of approach that in some cases is being taken in the consideration and determination of applications for office and mixed-use development in Central London (refer to Section 3.4(ii) and Section 5.4 (Case Study D)).

Besides increasing overall contributions, another motivation for applying affordable housing policies to commercial developments is to prevent housing sites from being put forward for 'alternative' uses. Where the application of affordable housing policies to residential schemes results in a considerable reduction in residual values, the promotion of the same site for other uses, particularly commercial activities, can in some situations significantly increase returns. Various commentators have raised this point. Barker (2004) considers the operation of constraints on securing affordable housing through planning obligations, including the issue of alternative uses:

"...affordable housing could also not be developed where Section 106 requirements make it more profitable for the private sector to use land for purposes other than housing." (2004, para. 10.25)

The ODPM Select Committee Report on *Affordable Housing* (2003) specifically states that commercial developers should be required to contribute to affordable housing provision in order to avoid the loss of housing sites to other uses that are not subject to the policy. London Residential Research and CD Richard Ellis (LRR/CBRE) imply a similar stance in their consideration of the reason for long-term vacancies in properties on the City fringe in London (refer to Section 3.4(ii) for their mixed-use policy analysis). They note that the affordable housing policy has been depressing residual land values below the level at which landowners would be prepared to sell, despite considerable demand for residential development. However, LRR/CBRE blame the resulting absence of development on a lack of similar policies being applied to commercial developments, stating:

"The absence of any significant planning obligations attaching to these office permissions is creating a serious market distortion, preventing any form of development at all." (2004, p. 10)

The simple fact that affordable housing policies are being applied in such a way as to distort the property market to the extent that economic viability is being seriously affected in some locations is entirely overlooked.

The extension of current affordable housing policy to commercial developments would lead to an increase in total private sector contributions towards affordable housing. By requiring alternative uses such as offices and shops to provide an element of affordable housing, a greater proportion of total planning applications would fall under the policy requirement. The overall output of affordable housing from the planning system would therefore be expected to increase. In reality, however, considerable obstacles to such a policy approach are likely, both in terms of ethical justification for requiring affordable housing contributions from such development and in terms of practical application and resource implications.

(iii) Some alternative planning mechanisms

There are two other potential mechanisms that have been suggested for using the planning system to increase the provision of affordable housing.

First, it has been proposed that the policy for allowing the exceptional release of rural sites for 100% affordable housing development (PPG3, Annex B) could be extended to urban areas. This 'urban exceptions' approach is recommended by Holmans et al (2002) in their assessment of fiscal policy options for promoting affordable housing for the ODPM. This policy would allow land that is not usually released for general housing development to be granted planning permission for solely affordable housing schemes. Such land could include land allocated for employment or community uses. In terms of outputs, however, an urban exceptions approach is likely to only have a small impact on the supply of affordable accommodation, releasing a limited number of sites releasing sites for 100% affordable housing development.

A second potential mechanism for increasing the supply of sites for affordable housing is the designation of a new 'affordable housing' use class, distinguishing this use of land from general housing development (Monk and Whitehead, 2002). This affordable housing use class could then be subject to specific policy relaxations, allowing affordable housing to be prioritised in planning procedures for the development, redevelopment or reuse of land. This could also allow LPAs to allocate sites specifically for affordable housing use in their development plan

proposals map and policies. However, the implication of such allocations is that the residual value of these sites would be lowered significantly below that of general housing sites. This could result in private landowners choosing not to bring forward such sites for development, instead retaining the land and seeking its re-allocation to a use with a higher value through a review of the local development plan (House Builders Federation, 2003). A use class mechanism could potentially have more far-reaching impacts on output than the urban exceptions approach, but it would have to be carefully operated in order to ensure that it did not impact negatively upon land supply and the release of sites.

These options highlight the crucial interaction between land control (mediated predominantly through private landowners) and development control (managed by the planning system) in seeking to maintain a balance between economic, social and environmental concerns. They demonstrate the critical equilibrium that exists between proactive and reactive planning policies, especially in respect of seeking to encourage affordable housing provision.

6.3 Policy Option Two: redefining boundaries - increasing the role of PiL?

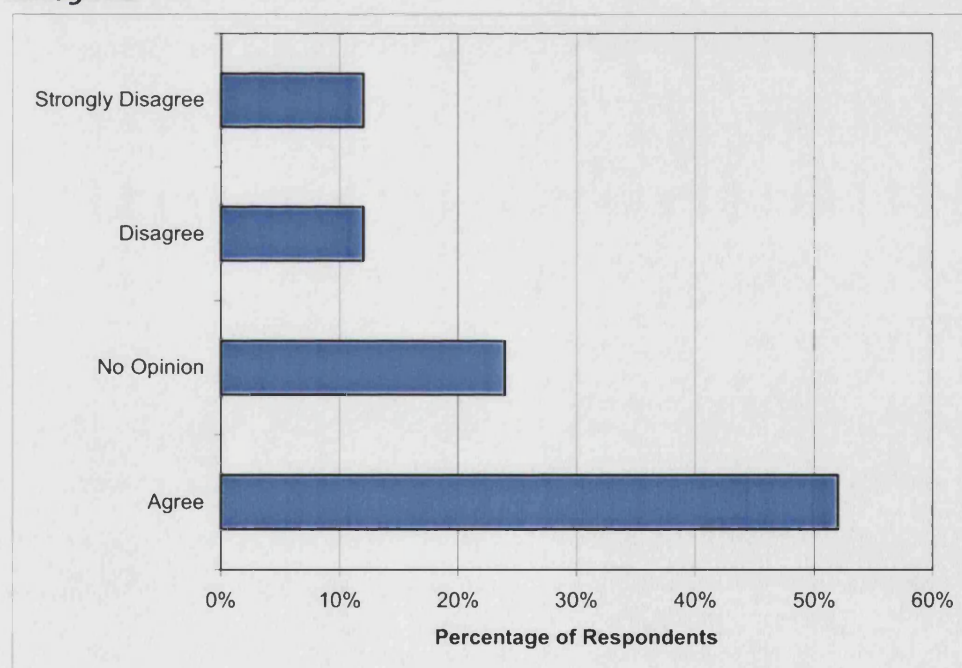
Under the current system of planning obligations for affordable housing contributions, the potential of using PiL mechanisms to maximise funding for affordable schemes has been stressed by various groups. Sections 1.4 and 2.1 note the particular interest that the Mayor of London has shown in exploring the way in which PiL contributions could be used more flexibly over space than is permitted under existing legislation, so as to increase the overall output of affordable housing. In their consultation on a new system of planning obligations (November 2003), the Government indicate that there may be opportunities to allow the 'pooling' of LA resources in the future, although in this case the idea relates predominantly to the proposed optional planning charge (OPC) concept.

As shown in Chapter 5, boroughs are in receipt of significant levels of funding through the operation of PiL policies, with an average total for London of £12 million per annum in the three-year period 2000/01 to 2002/03. Despite these significant funds, the supply of affordable housing through PiL mechanisms appears to be low and many boroughs are accumulating financial resources at a greater rate than they are spending these funds on increasing affordable housing supply. There may be a number of factors that contribute to the low levels of affordable housing output through the current system of PiL, possibly including poor management and a lack of appropriate skills within some borough councils. However, it is clear that land constraints are a fundamental barrier to the development of 100% affordable developments by RSLs in London, and a lack of suitable sites must likewise hinder the ability of many boroughs to use the PiL funds that they have received through S.106 agreements. More

flexible arrangements that would allow high-receipt boroughs (such as Westminster) to use their PiL contributions to fund land purchase and development in lower-value boroughs (such as Barking and Dagenham) could therefore significantly increase the number of affordable housing units provided through this mechanism.

In terms of existing relationships with neighbouring councils in respect to affordable housing policies, the questionnaire survey found that just 27% of responding borough officers consider their LA to have current links with neighbouring councils. The remaining 73% indicate that no links exist at the present time (Appendix 3.F). Of the links that exist, these range from "indirect/informal links only" to several boroughs that note an involvement in sub-regional level housing strategies and other groupings. The findings suggest that the majority of officers consider their borough to operate relatively independently of other councils, even where some links with neighbouring boroughs exist. Regarding the potential for the increased use of cross-boundary arrangements in the future, Figure 6.1 shows officers' opinions in relation to whether such mechanisms for the administration of PiL resources could operate as a solution to improved affordable housing provision.

Figure 6.1: Horizontal bar chart to show how far officers agree that increased cross-borough working could be a solution to improved affordable housing provision through PiL

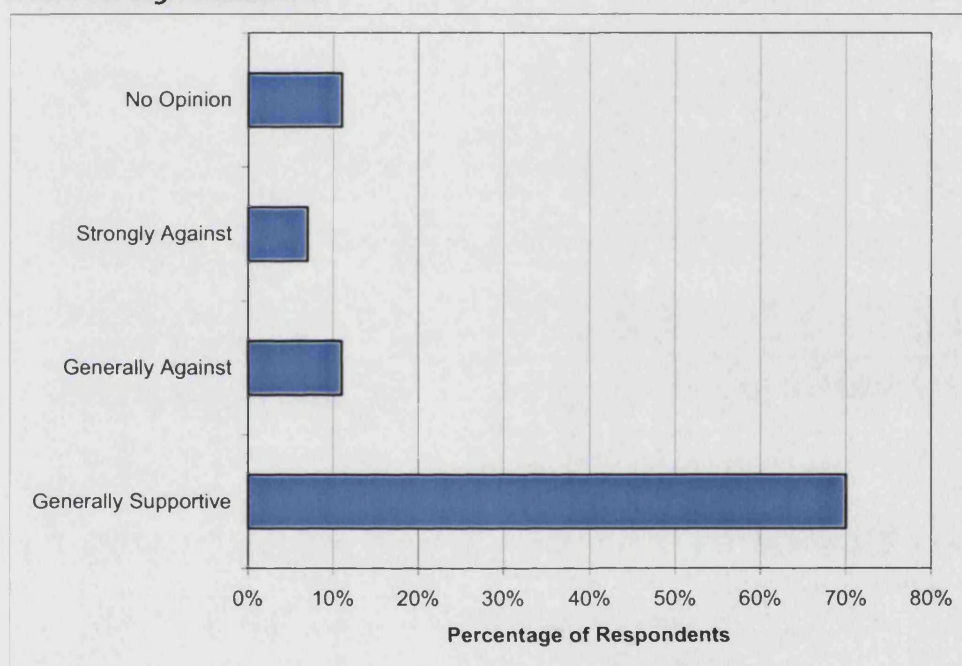


Source: author's questionnaire survey

Figure 6.1 shows that 52% of respondents agree that increased inter-borough working could be a solution in this respect. Almost a quarter (24%) of responding officers do not express a view,

with the remaining quarter (24%) being equally divided between disagreeing and strongly disagreeing. In terms of formal sub-regional arrangements that would seek to match land and funding for the provision of affordable housing, Figure 6.2 shows that, again, officers are generally positively inclined towards such a proposal. 70% of respondents state that they would be generally supportive of a formal arrangement to the management of PiL collection and redistribution. However, 11% do not express an opinion, and another 11% define their view as being generally against such an approach to PiL. Only 7% of officers responding to the questionnaire state that they are strongly against a formal sub-regional arrangement.

Figure 6.2: Horizontal bar chart to show borough attitudes towards formal sub-regional arrangements that would seek to match land and PiL funds, sometimes across borough boundaries

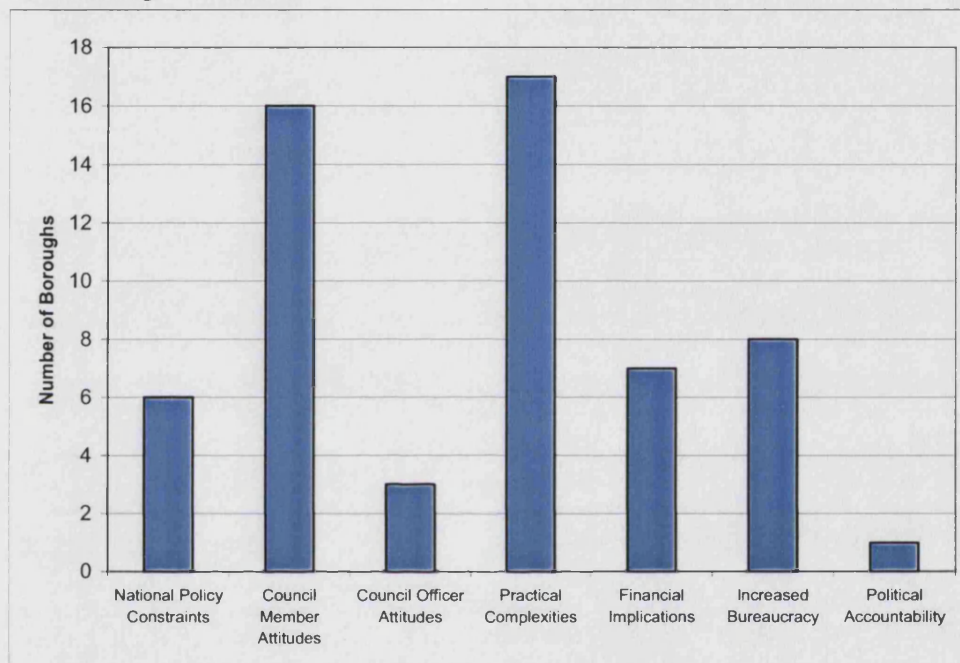


Source: author's questionnaire survey

While the majority of officers appear to be reasonably open-minded towards the creation of more flexible mechanisms that would facilitate cross-boundary working practices for the provision of affordable housing, they foresee considerable obstacles to such arrangements being implemented. Figure 6.3 shows officers' perceptions of the constraints that would be likely to prevent or hinder more flexible cross-borough and sub-regional initiatives. It indicates that practical complexities and Council Member attitudes are by far the most significant barriers envisaged. This highlights the importance that governance, management and administration arrangements would have in any new system of more spatially flexible financial contributions. In the Draft London Plan (2002), the Mayor suggests that sub-regional partnerships could play a significant role. It is certainly possible that an 'intermediate' tier of governance, between the

local and the strategic, could be an appropriate level for the coordination of such activities. However, as noted in Section 2.3, housing need is more closely related to local housing markets than to a strict delineation of borough boundaries, and a sub-regional level of administration could result in an equally arbitrary method of collecting and distributing PiL finances as the local-level borough councils.

Figure 6.3: Bar chart to show Officers' perceptions of constraints to more flexible cross-borough initiatives



Source: author's questionnaire survey

The findings of this thesis suggest that, despite a strong presumption in favour of on-site affordable housing provision, significant amounts of PiL funds are being generated through the planning system. Most of these financial contributions are placed in borough accounts for use at a later date, although some are allocated directly to specific RSL schemes. The accumulation of funds occurring in several boroughs provides no benefit to local housing need in terms of affordable housing outputs. A new approach to the management of PiL resources could be an effective mechanism of increasing affordable housing provision through this particular aspect of the planning system. Whatever policy stance is taken in terms of on-site provision or a cash charging approach, it is likely that at least a small proportion of affordable housing contributions will continue to be made via financial commitments. Effective use of these funds is required, but this is clearly not always happening under current arrangements. In the event that more flexible cross-boundary use of funds is permitted, it is possible that a strategic body could be a better agency to seek the most efficient allocation of resources. With adequate skills,

information and knowledge of London-wide housing markets, a strategic body could facilitate the most effective use of resources for local housing needs, sometimes across borough boundaries. Without creating new tiers of governance and potential resource wastage, such a London-wide agency could assume a variety of responsibilities in respect of affordable housing resources, possibly including a lead-role in negotiations, the management of general funding resources (SHG) and land assembly powers.

6.4 Policy Option Three: radical rethinking of planning gain – a betterment tax approach to affordable housing provision?

The Government are well aware of the problems identified at Section 6.1 in respect of the operation of the current system of planning obligations. Since the publication of the Planning Obligations Green Paper in December 2001, the Government has emphasised their commitment to creating more transparent, certain and speedy arrangements (DTLR, 2001, para. 1.4). Both the tariff and the optional planning charge (OPC) concepts have opened up consultation discussions in relation to the form that developer contributions should take. The Government's recent proposals to introduce a new OPC (November 2003) include specific reference to affordable housing contributions. Although it appears that a number of respondents to the public consultation on the OPC proposals assumed that the charge would always be provided in the form of a financial contribution, the Government has since confirmed that the OPC concept involves an 'in kind' charging option, in addition to a 'cash' charging option (ODPM, 30th January 2004). The difference between the proposed in kind OPC and the current negotiated system under S.106 is that the former would provide predictability:

"The benefit of an in kind charge, as opposed to an in kind negotiated contribution, is that there is certainty over the quantum of affordable housing to be provided. The level of this charge must be clearly stated in advance and in public. While negotiated policies are also stated in this way, the applicant has no certainty as to whether that policy will be adhered to by the local authority in a negotiation." (ODPM, 30th January 2004, para. 22)

Although there has been some uncertainty during the consultations on both the tariff proposals and the OPC concept, the Government's most recent policy statements confirm a commitment to retaining and re-emphasising the presumption in favour of on-site, physical provision of affordable housing. This is important in terms of the supply of land for affordable housing, and represents what is arguably the planning system's most significant contribution to increasing the delivery of such accommodation. However, Kate Barker's recommendations in respect of a planning gain supplement (PGS) (March 2004) have re-opened debate over the opportunities that exist to extract financial contributions from developers. The Planning and Compulsory Purchase Bill, which was granted royal assent in May 2004, includes provisions (Sections 46 and

47) for the implementation of a system of OPCs alongside negotiated agreements, subject to secondary legislation. Despite this, the Government have stated that they are currently exploring the PGS concept further (ODPM, 17th June 2004) and it remains unclear whether this mechanism, if favoured, would operate alongside the OPC or as an alternative approach.

It is therefore not certain what shape the planning obligations system will take in the future, including contributions to affordable housing. In addition to discussions relating to the most appropriate form for contributions, recent proposals for change have also involved a redirection in policy objectives. Throughout the lengthy debate on reforming planning obligations, the Government has made it plain that their objective is to increase developer contributions to the wider community. Even after abandoning the tariff scheme, this aim was clarified in the Deputy Prime Minister's statement on sustainable communities. He announced that existing policy guidance on planning obligations would be revised, with the stated purpose being *"to create a more streamlined system that would enable the community to share in the benefits arising from development"* (July 2002, para. 53). Although veiled within a wider discourse relating to sustainable development, the Government's focus on community benefits has dominated their proposals from the time of the Planning Green Paper. This represents a fundamental shift in planning policy objectives and has significant implications in considering the role between the planning system and the provision of affordable housing. Current policy on planning obligations under Circular 01/97 stresses that applicants should only enter into agreements that relate to the mitigation of impacts that arise directly as a result of a proposed development. The 'necessity test' requires that there is a direct relationship between the proposed development and the provisions of the agreed S.106. Both the Government's OPC and Barker's PGS represent standardisation mechanisms that remove at least some element of the site-specific focus of the Circular 01/97 negotiation approach and create a method of betterment recoupment.

There are three basic ways in which the Government could use the current policy proposals for the reform of planning obligations (Chartered Institute of Housing, 2004). Each has different implications for affordable housing provision.

(i) The Government's 'optional planning charge' (OPC)

If the route proposed in the consultation paper of November 2003 were to be followed, then a locally administered charge (OPC) would operate along with a revised system of negotiated agreements. As a 'blanket' charge on development across a LA area, applied on the basis of dwelling numbers, floorspace or some similar unit, the OPC would have the effect of a general depression of land prices, allowing some capture of land value for the wider community.

However, with no direct link to the land price and development costs of specific sites, the OPC could result in either prohibiting development on marginally profitable sites if set too high, or failing to realise potential contributions on more profitable sites if set too low. While the option of negotiated agreements would remain, it is likely that in practice the OPC requirements would form the starting-point for discussions between parties in these cases. Where developers negotiate to provide less than the OPC levels, it is probable that LAs would seek to undertake some form of financial appraisal of the economic viability of the proposed development. Under either option, therefore, the necessity test would be abandoned and the new system would effectively represent a locally-determined betterment levy.

In terms of affordable housing provision, the Government have recently stressed the role that in kind contributions could make within the OPC system, as noted above. Standardised rates for such on-site contributions would have to be clearly set out within development plan policies. This would represent a similar approach to current development plan policies that include targets (quotas), but would be stated as a non-negotiable requirement rather than a starting-point for discussions. In the event that developers opt for a negotiated agreement, rather than the OPC, the system is likely to operate in a similar mechanism as at the present time, except that the broader policy objectives in relation to community benefit could provide additional scope for the LPA to implement more stringent requirements. Regulation of the system would certainly be more difficult than under current provisions, opening up the potential for the 'exploitation' of developers.

(ii) Kate Barker's 'planning gain supplement' (PGS)

Kate Barker's proposed PGS (2004) comprises an explicit land tax, levied at the time that planning permission is granted. This system would be nationally, rather than locally, controlled, although it is suggested that a proportion of the revenues arising from it would be given back to LAs. How the national funds would then be used has not been discussed; they could be fed into other housing and infrastructure projects such as the 'growth areas' of the Communities Plan. In any event, the PGS would represent a straightforward tax on development; a charge to capture some of the land value for wider uses. While the fundamental principle is therefore similar to that of the OPC, it is likely that a PGS tax would be levied on the basis of the value of the land (Chartered Institute of Housing, 2004). In terms of impacts, it would therefore represent a more site-specific approach than the standardised local rate of an OPC. Alongside the PGS, Barker proposes that a 'scaled back' system of planning obligations would operate at the local level. In addition to the national tax developers would be required to provide a separate contribution that would be based on the mitigation of direct impacts, representing a return to the principles of the necessity test of Circular 01/97. While Barker does not detail the

form that such a system of planning agreements would take, the direct link with mitigation implies that the system could not be standardised in the form of the OPC, which would be applied to multiple sites.

Regarding the provision of affordable housing, Barker states that scaled back planning obligations should retain their current affordable housing requirements as set out in Circular 06/98 (Recommendation 24). How this would fit within the context of direct mitigation is not clear, however. There is no causal effect between the development of market housing and the need for affordable dwellings, so justification for such provision would have to be made under an explicit policy dealing with affordable housing (similar to Circular 06/98, which makes local housing need a material consideration). This would effectively result in the same system of planning obligations as exists at the present time, probably bringing with it the same range of problems. In practice, the retention of the current system of affordable housing provision would create a significant barrier to any kind of scaling back of S.106 mechanisms, as it is the affordable housing element within such agreements which invariably results in complexity and delay. Whether or not PGS funds would provide additional finances for affordable housing provision is not stated within Barker's Final Report. It is possible that LAs would be required to use part of the revenue returned to them (from the national tax) for affordable housing provision, possibly as top up SHG funding.

(iii) A combined approach

An alternative approach to planning obligations involves a combination of both proposals. In the event that the Government decides to follow the PGS route, it could also to introduce the OPC system for local level administration as a substitute for Barker's scaled back S.106 proposal. The difference between this approach and that suggested by Barker is that it would not be directly linked to impact mitigation on a site-by-site basis. Unless the Government's current proposals were redrafted, such a locally-administered system would also have to provide the alternative mechanism of a negotiated agreement, in order to make the OPC a real 'option' rather than a fixed tariff. However, as noted above, this negotiated contribution is likely to be based on the requirements of the OPC, possibly moderated by some form of economic appraisal to determine what was achievable.

In the case of the Government adopting both the PGS and the OPC approach, it is likely that there would be greater flexibility to require affordable housing provision, as the LA's remit would not be limited to direct impact mitigation. There would be opportunities for both increased funding (through the PGS tax revenue) and increased land supply (through in-kind

affordable housing OPC contributions). However, how this 'double-tax' would impact on the economics of development is less clear.

6.5 Looking to the future?

There are, in principle, a number of ways in which the current system of planning obligations could be altered. Each has different implications in terms of the provision of affordable housing. Retaining the current system and altering some of the parameters for policy implementation (Policy Option One) is unlikely to have a significant effect on the output of affordable housing through the planning system. A more radical change to the spatial framework for provision, allowing the more flexible use of resources over space (Policy Option Two), has greater potential in terms of increasing efficiency and achieving reasonable improvements in delivery. However, the Government is in the process of considering choices in relation to significantly more comprehensive reforms to the system of planning obligations (Policy Option Three). Barker (2004) has suggested that there should be a separation established between infrastructure mitigation (scaled back planning obligations) and betterment taxation (PGS) to extract some of landowners' windfall gain. This would certainly remove the planning system from some of the more intense political complexities, allowing the PGS tax to be dealt with separately under fiscal policy. By contrast, the Government's OPC would seek to achieve both policy aims in one mechanism. The fundamental objective of recouping betterment is made clear within the OPC proposals, although the local-level charge approach allows a certain amount of 'blurring' in this respect. As observed by Henneberry,

"It is a less obviously political target. Planning obligations already exist. Their dual role disguises their use by some authorities to obtain a share of betterment. It is precisely this combination of continuity and obfuscation that has allowed local practice to be so much in advance of local policy."(2004, p. 22)

The Government has made clear its desire to use planning obligations to gain wider community benefits than is allowed under S.106. The critical decision that remains is whether this aim will be carried through in an explicit national tax or via an implicit local planning charge.

Chapter 7

Conclusions

7.1 Planning for affordable housing

The planning system has been used in a variety of ways in order to secure affordable housing. However, it is only since the late 1980s that the policy of seeking affordable housing provision as part of private residential development, usually by means of a negotiated planning obligation, has become a popular approach. First introduced by a Conservative Government, this policy makes local housing need a material consideration in the determination of planning applications for residential development. Where there is a demonstrable need for affordable housing, LPAs may also include policies within their local development plan. Throughout the history of the policy, on-site provision of affordable housing has been prioritised, although off-site and PiL contributions have been established as alternative options where this is considered more appropriate. The Labour Administration has continued a similar approach towards affordable housing planning policy and under its Communities Plan is strongly promoting the benefits of mixed and inclusive housing developments. The role that the private sector can play in the delivery of affordable housing has been emphasised in various ways. For example, of the £1.67 billion ADP Housing Corporation funding for 2005/06, £350 million has been earmarked by the Government to be made available exclusively for affordable housing development by private sector developers or housebuilders.

Previous research has indicated that the affordable housing policy is reaching maturity (Crook et al, 2002), and this is confirmed by the findings of this thesis. All of the London boroughs now operate affordable housing policies, although there is some variation in both policy requirements and implementation approach. The system remains relatively uneven over space in this respect, both between boroughs and often between sites, leading to continued criticisms of unpredictability. However, despite various problems with the current system under S.106, it appears that practical difficulties with the policy are lessening over time as all parties involved become increasingly familiar with the typical requirements and establish good working practices with each other (Crook et al, 2004b forthcoming).

In terms of output, the planning system now contributes to the delivery of a considerable proportion of affordable housing completions in London. This is facilitating mixed tenure

residential development that would not otherwise take place, and is thereby enabling the creation of more mixed and inclusive communities. However, there is increasing evidence that the delivery of affordable housing is becoming heavily reliant upon planning policies. Constraints on land supply hinder the delivery of 100% affordable housing schemes by RSLs, with a growing emphasis upon the planning system to bring forward sites for partial development for affordable housing (Barker, 2003). There is likewise a growing dependence on private subsidy to meet affordable housing funding requirements, with a decreasing proportion of schemes being funded by public sector and RSL finances alone (Crook et al, 2004b forthcoming). Although there have been concerted efforts to maximise the provision of affordable housing in London, Government HIP data indicates that the rate of total affordable accommodation completions has not increased in recent years. The planning system accounts for a growing proportion of affordable housing completions, but the majority of S.106 development requires public funding (SHG) in addition to the private sector subsidy. There is increasing evidence that the planning system is not providing dwellings that truly additional to traditional mechanisms of provision of 100% affordable housing schemes by RSLs (Crook and Whitehead, 2002), but is instead fostering a culture of dependence on the private sector to enable delivery.

The subsidy of affordable housing development by the private sector is achieved through either the physical provision of units or financial contributions (PiL). In the former case, the on- or off-site provision of affordable dwellings involves some form of developer cross-subsidy, although this varies considerably from borough-to-borough and site-to-site. In some cases, land is made available at a discounted price; in other cases completed units are sold at a sub-market price, possibly calculated by reference to a specific funding index such as TCI. While some boroughs seek to stipulate the way in which provision should be made available in respect of finances, it appears that in other cases this is less regulated. It is clear that the physical provision of affordable housing units by private developers involves a range of different subsidy arrangements, which means that the cost to developers is extremely variable between developments. There is limited data available at the present time on the extent of variation in this respect, and the issues of cross-subsidy and developer costs are inherently difficult to fully analyse comprehensively. This is an area that requires additional research in the future. Where developers provide financial PiL contributions rather than physical provision of units, the subsidy to affordable housing delivery is indirect, with such contributions typically being paid into LA funds, to be administered later at the discretion of the boroughs. However, the size of the private sector subsidy in this case is much more straightforward as the payment is clearly stated and there are no further implications on development costs. This thesis has found that receipts of PiL contributions vary significantly between boroughs, although across London as a whole there is a considerable and regular supply of funding from this source. In terms of

outputs, it has been found that very few affordable housing units are provided in London through the use of PiL funds. In several boroughs it appears that a considerable proportion of PiL finances are not being spent, and are instead accumulating in LA accounts.

Although the planning system has been successful in providing opportunities for the delivery of affordable housing, this approach has not been without some negative impacts on development. While the majority of the costs of affordable housing provision are passed back to landowners in reduced land prices, the unpredictable nature of affordable housing policy means that the level of private sector contribution required is rarely known accurately in advance of option agreements being made with developers and planning applications being submitted, creating a level of risk for developers. Some evidence of negative impacts on economic viability has been identified in the literature, although the majority of research studies suggest that it is rare for residential sites to be held back from development because of the implications of affordable housing policies on profits. At the same time, however, various groups have promoted the extension of affordable housing policies to include commercial developments, with the express purpose of preventing higher value 'alternative' land uses from being developed on potential housing sites in London. It is therefore clear that there are significant economic implications involved in the implementation of affordable housing policies. There is no literature at the present time on the 'gap' between the level of private subsidy achieved for affordable housing and the overall cost to the private sector as a result of the policy being applied to development. Further research is required into both the effect of the affordable housing policy on economic viability and the extent to which private sector costs exceed the subsidy to affordable housing provision. If significant 'losses' are being produced, in addition to the resource costs associated with negotiating agreements for affordable housing, then this would indicate that the policy is an expensive way of providing affordable housing. The implications of compromising economic viability are not just relevant to the private sector and the delivery of market housing. They also include substantial potential impacts for affordable housing provision. Policymakers need to be aware of the significant fluctuations that tend to take place in property markets, over time as well as space. The affordable housing policy has largely come to fruition during a period of considerable buoyancy, but how the policy will operate during times of economic downturn is less clear.

7.2 A new system of planning contributions?

In the Planning Obligations Green Paper in December 2001, the Government acknowledged that the current system of planning agreements under S.106 experiences a number of problems and requires radical reform. Since that time, a range of different proposals for alternative mechanisms have been put forward, although it currently remains uncertain what form the new

system will take. The Government has made it clear that they will seek to establish a mechanism that allows communities to share in the benefits of development. This represents a fundamental shift in policy objectives when compared to the necessity test of Circular 01/97. An important decision is required on whether to retain the emphasis on site-specific impact mitigation, or whether a system of betterment taxation (of some form) should be adopted. In the meantime in practice, strategic and local policies in London and other high-pressure areas continue to seek as much affordable housing from developers as possible. The national thresholds of Circular 06/98 are increasingly only used by boroughs where the development plan is out-of-date, with many LPAs operating policies below these levels. On-site provision is prioritised, although off-site and PiL contributions are also allowed in exceptional circumstances by many boroughs. It is interesting to note that the exceptional circumstances most frequently considered acceptable to LPAs are those relating to the creation of mixed communities. The Government's agenda for inclusive communities is increasingly being implemented through planning policies by means of securing specific tenures and types of dwelling provision.

A clear decision is needed on the role of planning obligations and the wider purpose of the planning system, as there is considerable confusion at the present time between policies and practice. A redirection of policy approach is taking place beneath the surface, but it is essential to both the integrity of the system and the future of development that clear objectives and guidance are set out. If the Government decides to re-introduce betterment taxation, whereby developers are charged in order to provide wider community provisions, then this would be most appropriate in the form of a national fiscal policy, rather than a planning policy. The PGS is one option, although it is uncertain how the revenue generated would be spent. While Barker (2004) suggests that a proportion of the PGS finances would be returned to the relevant LA, there is limited information on how the remaining national funds would be used. Unless significant accountability were to be introduced at both national and local levels, then it is possible that the PGS could soon become just another mechanism of general taxation, with no directly associated benefits at the local level. To make the planning system itself a method of betterment taxation, through a local OPC, would be to fundamentally change the specific land use role that the system has played since its inception. Whilst a locally administered fixed-rate fee approach would have the advantage of retaining considerable autonomy for the borough councils, its 'blanket' approach to sites across authority areas would be likely to lead to disproportionate impacts on scheme viability over space. In order to protect economic stability, any OPC approach would probably have to take account of land values and economic appraisal factors on a site-by-site basis.

7.3 A future for affordable housing? recommendations

There are various ways in which planning obligations and the planning system as a whole can and could be used to facilitate the delivery of affordable housing. The necessity test approach to planning obligations was set as a principle of equity, whereby developers would only be required to deal with the mitigation of impacts caused directly by a specific development. With no direct causal link between general housing development and local housing need, the current system depends entirely upon the specific provisions of affordable housing policy under PPG3 and Circular 06/98. Established by a Conservative Administration, the original purpose of the policy was undoubtedly to privatise the provision of affordable housing. The post 1997 Labour Government has retained and enhanced the policy, but with a new emphasis on the creation of mixed and balanced communities.

Neither as a privatising policy nor as a social equity policy has the current system been more than marginally successful. Although the UK experienced a property market boom during the late 1990s and early 2000s, the planning system has not contributed to producing a significant amount of additional affordable housing units. A growing proportion of the affordable units developed are provided as a result of planning policies, but there is an increased inter-dependence on both private and public sector funding resources, and this represents a real danger if economic slow-down occurs. In terms of social equity, the planning system has indeed allowed the provision of affordable housing in areas where they would not otherwise have been developed, enabling a considerable number of mixed-tenure residential schemes. However, the relatively small outputs from the system means that affordable housing provision remains accessible only to the 'fortunate few', while a growing proportion of London's population struggle to meet their needs through the private market. The critical affordability crisis of the present time is fundamentally an economic issue, and an economic solution is therefore required. While the planning system can assist in attaining a variety of economic and social objectives, it is not an appropriate mechanism for meeting welfare needs and achieving redistributive objectives.

If the planning system is to continue to be used to contribute some level of affordable housing provision then the parameters for provision must be clearly established. The complexity of the current system under S.106 is a considerable problem in the delivery of both market and affordable housing. While the current policy is largely accepted as a 'planning reality' by the private sector, there are increasing calls for additional resources to cope with the demands the system brings in terms of staffing, skills and financing. If the negotiation approach to seeking obligations is to be continued then it is essential that significant changes are made to improve efficiency in order to maximise the provision of affordable housing. Given the relatively

prescriptive nature of national planning policy in the UK, it is possible that a strategic agency could be established in the case of London, which would control the administration of affordable housing policy. While the addition of a sub-regional tier is likely to result in increased complications and resource-consumption, a single London-wide body would have the advantage of having a strategic overview of local housing markets and needs. If this agency was granted control of both public (SHG) and private (PiL) funding resources alongside a leading role in negotiations on a site-by-site basis, then it is possible that a more streamlined approach to planning and affordable housing operations could be achieved. Increased efficiency would allow the value of all developer contributions to be maximised, whether they were granted in kind or as a financial payment.

In considering more radical options for changing the current policy for affordable housing the Government could either adopt some form of betterment taxation, implicit or explicit, or they could scale back planning obligations to deal with mitigation only and seek affordable housing provision through alternative mechanisms. This decision is of fundamental importance in defining the purpose of planning and planning obligations, and the Government needs to determine whether to make planning policies part of a wider 'redistribution' agenda or whether to return to the 'land use' principle. The current approach arguably represents an attempt to seek betterment 'by stealth', with no clearly stated policy objectives at national level to justify the practices which are taking place in local planning. The mixed and inclusive communities agenda has been used by the current Administration as a prerogative for requiring considerable commitments to affordable housing provision from the private sector, many of which go far above and beyond the remit of traditional land use planning in the UK.

The fundamental political and ethical questions relating to the provision of affordable housing remain under debate at the present time. While some private developers are showing an increased interest in becoming involved in the direct provision of affordable dwellings, the use of the planning system to require private sector provision and subsidy continues to rest on shaky ground in terms of true policy justification. In terms of both equity and efficiency principles, it is arguably the case that the affordable housing policy has proved to be a sub-standard mechanism of providing for local housing needs. The definition of affordable housing has been broadened and confused during recent years of housing market boom and an increased awareness of key worker and intermediate market housing needs. A more focused approach to delivery could be obtained if some redefinition of objectives was set out, with 'priority affordable housing' including only subsidised housing for social renting. While the market could be encouraged to provide for intermediate affordable housing needs, such as key worker accommodation and low-cost home ownership, through fiscal policies, provision of subsidised housing should arguably be delivered as part of welfare state provision by direct

Government intervention. Although some 'council housing' developments of the past have experienced considerable problems, there have also been success-stories. Learning from previous good practice cases, there is no reason why good-quality and attractive subsidised housing developments could not be provided again on a large-scale. In the case of London, land supply constraints will continue to operate, but in association with land assembly powers and appropriate planning controls these are not insurmountable obstacles. By contrast, low-demand housing estates cause the opposite problem for many LAs in the North of England, suggesting that urban and regional policies could play an important role in addressing the affordability crisis at a national level. The provision of affordable accommodation is not only a matter for housing and planning policies, therefore. It is clear that important decisions are also required in respect of economic, fiscal, urban and regional policies. Perhaps with an integrated and coordinated policy approach across government, the planning system can begin to refocus on facilitating the delivery of high quality developments that meet economic, social and environmental needs.

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Appendices

Appendix 1 - Borough Policy Analysis

(pages 119-122)

June 2004

London Borough	Current National Policy	Borough Sub-Region	Adopted UDP	Adopted UDP Affordable Housing Policy	Emerging UDP	Emerging UDP Policy	SPG	Note on SPG Policies	PiL Policies
Barking and Dagenham	25	East	1995	Overall 25% target	Issues Papers, Nov 1999	-	Appendix to UDP	-	-
Barnet	25	North	1991	-	Revised Deposit, March 2001; Pre-Inq Changes, January 2003	10 units/0.4 ha, 30-50% (2001); 15 units/0.5 ha, 30-50% (2003)	Draft, Sept 2000	-	Emerging UDP: Policy H8 – PiL may be accepted exceptionally
Bexley	25	East	1996	-	Revised Deposit, Nov 2001; Post-Inquiry Mods, Nov 2003	25 units, 25% (2001); 15 units, 35% (2003)	-	-	Emerging UDP: Policy G6 – PiL will only be accepted in exceptional circumstances
Brent	25	West	2004	15 units/0.5 ha, 30-50% (2004)	-	-	Draft AH SPG (No. 21), Oct 2003	Same as Adopted UDP	Adopted UDP: Policy H4 – limited circumstances, formula included
Bromley	25	South	1994	Revised Policy adopted for DC purposes in Feb 2002	Revised Deposit, Sept 2002; Pre-Inquiry Changes, April 2003	15-24 units/0.5-0.8 ha, 30% habitable rooms as key worker hsg or 25 units+/0.8 ha+, 30% habitable rooms (25% as social rented and 5% key worker)	Draft AH SPG, May 2002	Same as Emerging UDP. PiL rarely acceptable, formula.	Emerging UDP: para. ref.– PiL maybe acceptable in limited circumstances
Camden	15 (INNER)	Central	2000 (Alteration No. 2: Affordable Housing, Adopted Jan 2004)	15 units/0.5 ha, 25%; Alteration: 15 units/0.5 ha, 50% (policies also involve mixed use and residential)	Revised Deposit, May 2004	Deposit: 15 units/0.5 ha, 50%	AH & Hsg in Mixed Use Devt SPG, Nov 2003	Incs various 'Options' for provision on a range of sites	PiL as exceptional, formula in SPG
City/ Corporation of London	15 (INNER)	East	2002	15 units/0.5 ha, "an appropriate proportion"	-	-	Draft Plg Obligatins SPG, July 2003	Appendix 1: Aff Hsg – 25% provisions, ref. PiL	Within SPG
Croydon	25	South	1997	0.5 ha	Revised	0.5ha/sites capable of	AH SPG, Jan	Section on PiL,	Within SPG

London Borough	Current National Policy	Borough Sub-Region	Adopted UDP	Adopted UDP Affordable Housing Policy	Emerging UDP	Emerging UDP Policy	SPG	Note on SPG Policies	PiL Policies
					Deposit, Nov 2003	15 units, overall 50% (large sites: 35% social and 15% key worker AND sml sites: 25% social and 15% key worker)	2003	inc formula	
Ealing	25	West	1995	25 units, no target	Revised Deposit, Oct 2002; Post-Inquiry Mods, May 2004	15 units, 50%	Draft SPG	-	Emerging UDP: may be accepted in exceptional circumstances
Enfield	25	North	1994 (Interim Amendmts, 1999)	Policy H19, seek a proportion... Amendments: 10 units, 25%	Issues Papers, May 2003	-	Cash in Lieu for Off-Site Development SPG, Dec 2002	-	Within SPG
Greenwich	25	East	1994	-	First Deposit, February 2002	25 units/0.5 ha, 30% overall target	-	-	Emerging UDP Policy H17 – “exceptional circumstances”, specific criteria, formula.
Hackney	15 (INNER)	East	1995	25%	Issues, Dec 2003	-	AH Strategy, Feb 1998	-	-
Hammersmith and Fulham	15 (INNER)	West	2003	Subject to national thresholds, maximum reasonable proportion, overall target of 65%	-	-	AH SPG (No. 11)	-	-
Haringey	15 (INNER)	North	1998	Not stated	Deposit, Sept 2003	10 units, negotiable proportion, overall target of 50%	Draft SPG (No. 11)?	-	Exceptional circumstances
Harrow	25	West	1994	-	Revised Deposit, March 2002; Post-Inquiry Mods, Jan 2004	15 units/0.5 ha, overall target of 25%, site provision of 30% minimum and 50% on larger sites	AH SPG, 1998	-	Emerging UDP: Policy H6 – Exceptional circumstances
Havering	25	East	1993	-	-	Issues Papers, 1998	AH SPG, Nov	-	-

London Borough	Current National Policy	Borough Sub-Region	Adopted UDP	Adopted UDP Affordable Housing Policy	Emerging UDP	Emerging UDP Policy	SPG	Note on SPG Policies	PiL Policies
							1998		
Hillingdon	25	West	1998	25 units/1 ha, "highest acceptable proportion"	Issues, Apr 2001.	Issues Paper Question: 35-50%?	S.106 Best Practice Note, Aug 2001	-	-
Hounslow	25	West	2003	20 units/0.75 ha, up to 50%	-	-	SPG, April 2002	-	Adopted UDP: para. 8.14 – exceptional circumstances
Islington	15 (INNER)	Central	2002	15 units, 25%	-	-	AH SPG, April 2003	35% of habitable rooms (25% social and 10% interm)	-
Kensington and Chelsea	15 (INNER)	Central	2002	Capacity of 15 units, , "significant proportion"	-	-	-	-	-
Kingston on Thames	25	South	1998	20 units, "maximum reasonable proportion"	Revised Deposit, Feb 2002; Pre-Inq Changes, Oct 2002	10 units/0.3 ha, 40% overall target (25 units+, 50% and 10-25 units, 30-50%)(25% of AH provision should be social rented)	-	-	-
Lambeth	15 (INNER)	Central	1998	0.3 ha, "reasonable proportion"	Second Deposit, June 2004	10 units/0.1 ha, 50% of habitable rooms	-	-	Adopted UDP: para. 2.30 – exceptional circumstances only. Emerging UDP: Policy 16(D) – limited use of PiL
Lewisham	15 (INNER)	East	1996	?	Revised Deposit, August 2001; Post-Inquiry Mods, Feb 2004	15 units/0.5 ha, 30%; Mods = 35% (30% affordable and 5% key worker)	Draft AH SPG, Feb 2004	35% habitable rooms (30% AH and 5% key worker)(AH = 25% social and 5% shared ownership)	Draft SPG: Appendix 4 – Calculation of Provision, based on TCI
Merton	25	South	2003	-	-	-	Draft SPG, 1999	-	-
Newham	15 (INNER)	East	2001	15 units/0.5 ha, 25% assumed; policies to create balanced communities	-	-	Draft AH SPG, March 2002	As in UDP	Adopted UDP: App H4 – Calculation of Provision, based on TCI and SHG rate

London Borough	Current National Policy	Borough Sub-Region	Adopted UDP	Adopted UDP Affordable Housing Policy	Emerging UDP	Emerging UDP Policy	SPG	Note on SPG Policies	PiL Policies
Redbridge	25	East	2003	25 units/1 ha, 25% minimum	-	-	Draft AH SPG, Mar 2004	As in UDP	Draft SPG: In-Lieu Payment – will not normally be acceptable, based on TCI
Richmond on Thames	25	South	1996	10 units?	Deposit, May 1999; Pre-Inquiry Mods, Dec 2002	10 units/0.3 ha, 40% over Plan period (NB. 15 units threshold and 25% was approved by First Inspector)	AH SPG, Feb 2003	-	Emerging UDP: exceptional cases
Southwark	15 (INNER)	Central	1995	20 units, "reasonable proportion"	First Deposit, Oct 2002	15 units/0.5 ha, 25% minimum of residential content	AH SPG, Feb 2002	-	Emerging UDP: Appendix 4 - where acceptable, 33% minimum of facilitating development
Sutton	25	South	2003	20 units/0.8 ha, 30%	-	-	-	-	Adopted UDP: Policy HSG9 – exceptional circumstances
Tower Hamlets	15 (INNER)	East	1998	15 units, 25%	Issues, Apr 2002	-	Draft AH SPG, Aug 2001	-	-
Waltham Forest	25	North	1996	All new housing developments, 25%	Revised Deposit, Apr 2003	No threshold, 35%	Draft AH SPG, Apr 2003	-	-
Wandsworth	15 (INNER)	Central	2003	"Suitable sites", "25% in mixed schemes on suitable sites"	-	-	-	-	-
Westminster	15 (INNER)	Central	1997	"Substantial housing developments", "a proportion"	Revised Deposit, 2002; Pre-Inquiry Changes, Aug 2002; Post-Inquiry Mods, May 2004	15 units/0.5 ha, 30% (with specific requirements for 15-24 unit devts)	-	-	Emerging UDP: Financial contribution calculations equivalent to 43% of market units, with specific figures for 15-24 unit devts (and higher levels in "high value areas")

Appendix 2 - Borough Covering Letter and Questionnaire

Flat 2
118 Fordwych Road
London
NW2 3NL <or WORK?>

jhainsworth@lichfields.co.uk
daytime tel: 020 7837 4477

<Date>

<Officer's Name>
London Borough of <Borough Name>
<Address>

Dear <Officer's Name>

Planning Research Project: Affordable Housing through the Planning System and the Use of 'Payments in Lieu' in London.

I am writing to request your assistance in a research project I am undertaking as part of my Town Planning MPhil studies at the University College London.

The study is considering the provision of affordable housing through the planning system, looking in particular at the use of 'payments in lieu' of on-site affordable housing provision, also known as 'commuted sums'.

I enclose a questionnaire, which I would be very grateful if you could complete and return in the enclosed stamped addressed envelope by <Target Date>.

I appreciate that your time is under many pressures and that you have probably received countless similar requests in the past. However, it is important that I have your Borough's response in order that the research is truly representative and the comments of your Council fully considered before any results are published.

If you have any queries regarding the research or the questionnaire, or if you have any additional comments, please do not hesitate to contact me. Many thanks in anticipation.

Yours sincerely/faithfully (<as appropriate>)

JENNIE HAINSWORTH

Encs. (<Questionnaire and Stamped Addressed Envelope>)

Affordable Housing through the Planning System and the Use of 'Payments in Lieu' in London: Questionnaire

(Jennie Hainsworth, UCL: jhainsworth@lichfields.co.uk, daytime tel: 020 7837 4477)

Planning Policies for Affordable Housing

- (1) Does your Borough UDP include a policy on affordable housing?

☐ Yes ☐ No

If there is a planning policy regarding affordable housing, what are the policy requirements in terms of:

- (a) threshold (usually in units and/or area) _____
(b) any stated level of provision (possibly a percentage) _____

- (2) Is there a policy relating to the Borough's acceptance of 'Payments in Lieu' of on-site affordable housing provision?

☐ Yes ☐ No

If yes, is there a specified requirement or formula for calculating the necessary sum? (Please state below, if possible)

- ☐ Yes, a specific requirement _____
☐ Yes, a formula _____
☐ No

- (3) Has any Supplementary Planning Guidance (SPG) or similar document been published on Affordable Housing?

☐ Yes ☐ No

- (4) When was the latest Housing Need Study carried out? (date, if possible)

Affordable Housing Policies in Practice

- (5) In applications which fall within the policy threshold and some form of affordable housing contribution is to be made, approximately what percentage would typically be 'Payments in Lieu' (money) rather than on- or off-site (physical) provision?

_____ %

- (6) What is the Borough's approach to the acceptance of 'Payments in Lieu'?

- ☐ Very flexible
☐ Moderately flexible
☐ Inflexible: 'exceptional' circumstances only

Where the Borough has an 'inflexible' approach, what 'exceptional' circumstances would allow a developer to make a 'Payment in Lieu'?

- ☐ Developer's financial constraints
☐ Brownfield remediation costs
☐ Wider regeneration value of the development

☐ Alternative planning contributions instead (open space, highways...)

(7) Do 'Payments in Lieu' usually go into a designated 'fund' or 'account' and accumulate, or are they for specific designated affordable housing projects?

☐ Fund or account – please go to Question 8

☐ Designated affordable housing projects – please go to Question 9

☐ Both (please complete all questions)

(8) **If financial contributions go into a fund or account**, how are the funds used?

☐ Specific RSL or HA schemes

☐ As a SHG 'top-up'

☐ Other (please specify) _____

What is the situation regarding land availability within the Borough for the use of accumulated funds for affordable housing development?

☐ Land available and affordable

☐ Land available but too expensive

☐ Limited land supply

Which of the following best describes the balance of 'Payment in Lieu' funds and land within the Borough?

☐ Equal balance between funds and land supply

☐ More funds than land available

☐ Less funds than land available

(9) **If financial contributions go to designated affordable housing projects**, are these usually alternative sites under construction by the same developer, are they specific RSL affordable housing developments, or another form of development?

☐ Alternative sites of the same developer (market housing with some affordable units)

☐ Specific RSL developments (100% affordable housing)

☐ Another form of development (please specify) _____

The Future of Affordable Housing Contributions in London

In the draft London Plan (2002), the Mayor suggests that more flexible arrangements for the use of payments in lieu of on-site affordable housing provision could increase overall affordable housing supply. Increased cross-borough working and sub-regional partnerships for the sharing of resources are proposed.

(10) Does your Borough currently have any links with neighbouring Councils in relation to affordable housing policies and the use of payments in lieu?

☐ Yes

☐ No

If yes, please describe _____

(11) How far do you agree that increased cross-borough working could be a solution to improved affordable housing provision through the payments in lieu mechanism?

- ☐ Strongly agree
- ☐ Agree
- ☐ Disagree
- ☐ Strongly disagree
- ☐ No opinion

Any other comments: _____

(12) What would be your attitude towards a formal sub-regional partnership arrangement, which sought to match land and payment in lieu funds within an area but sometimes across borough boundaries?

- ☐ Strongly supportive
- ☐ Generally supportive
- ☐ Generally against
- ☐ Strongly against
- ☐ No opinion

Any other comments: _____

(13) What constraints do you envisage to more flexible cross-borough initiatives for the 'sharing' of land and/or fund resources, whether informal or formal?

- ☐ National policy restraints
- ☐ Council Member attitudes
- ☐ Council Officer attitudes
- ☐ Practical complexities
- ☐ Financial implications
- ☐ Increased bureaucracy
- ☐ Others, please note: _____

(14) Do you have any suggestions to improve the current payment in lieu mechanisms? Please note any comments below.

Thank you for your co-operation in completing this questionnaire. It is much appreciated.

If you would be agreeable to being involved in the next stage of research for this study, please tick here. Thank you. ☐

Appendix 3 - Questionnaire Data

- Appendix 3A**

Affordable Housing Policy?	Number of Responding Boroughs	Percentage of Responding Boroughs
Yes	27	100%
No	0	0%

- Appendix 3B**

SPG?	Number of Responding Boroughs	Percentage of Responding Boroughs
Yes	16	59%
No	11	41%

- Appendix 3C**

Date of Latest Housing Need Assessment?	Number of Responding Boroughs	Percentage of Responding Boroughs
1998	2	7%
1999	3	11%
2000	5	19%
2001	5	19%
2002	6	22%
2003	3	11%
None	3	11%

- Appendix 3D**

Policy Relating to Payments in Lieu?	Number of Responding Boroughs	Percentage of Responding Boroughs
Yes	18	67%
No	9	33%

- Appendix 3E**

Borough Approach to PiL Acceptance?	Number of Responding Boroughs	Percentage of Responding Boroughs
Very Flexible	2	7%
Moderately Flexible	7	26%
Inflexible	18	67%

- **Appendix 3F**

Links with Neighbouring Councils?	Number of Responding Boroughs	Percentage of Responding Boroughs
Yes	7	27%
No	19	73%

Appendix 4 - Borough PiL Policy Case Studies





